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• THE BEST ATTENDED convention ever held by The Florida Bar ended June 24 in Miami Beach when about 1400 lawyers, judges and their families went home following four days of seminars, meetings and social and sports events. A full account of the 17th Annual Meeting will be included in the October issue of the Journal. No issue of the Journal is published in August and the September issue is the annual directory.

• GENERAL COMMITTEE MEETING . . . President William P. Simmons, Jr., has called upon standing committees of the Bar to hold a general meeting at Pier 66 in Fort Lauderdale on September 30. The meeting has become an annual event to afford committees an opportunity to plan their activities and programs for the year. All members of the Bar are invited to attend the day-long sessions and will be notified by mail about registration details.

• JUDICIAL QUALIFICATIONS COMMISSION . . . The Board of Governors has named Charles A. Kimbrell of Miami and Richard T. Earle, Jr., of St. Petersburg as The Florida Bar's representatives on the new Judicial Qualifications Commission. The Commission was approved by Florida voters last November and on June 7 a legislative act was signed by the Governor outlining the procedure of administering discipline to judges and replacing a judge who becomes physically or mentally incapacitated. Representatives, totaling nine, will be named by the Circuit Judges Conference, the districts courts of appeal, and by the Governor. Kimbrell retired from the Board of Governors in June after three years' service and Earle ended a tenure of ten years.

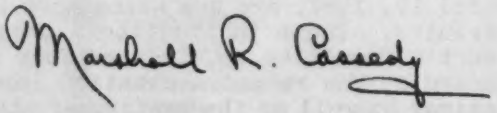
• FLORIDA STANDARD JURY INSTRUCTIONS, authorized for use in Florida courts by order of the Supreme Court of Florida, April 19, 1967, are now being used in many of the judicial circuits. These instructions, prepared by the Supreme Court's Committee on Standard Jury Instructions, were discussed at the recent convention during the Trial Judges Seminar as well as the meeting of the new Trial Lawyers Section. A loose leaf binder containing all approved instructions may be ordered through The Florida Bar, Tallahassee, Florida 32304, at a cost of $15.

• ANY CONSTRUCTIVE COMMENTS on changes in court rules of procedure? If so, now is the time to contact the Florida Court Rules Committee and its new chairman this year, Henry P. Trawick, Jr. Under procedures established by the Supreme Court of Florida, amendments to the rules will be reviewed by this committee during the next several months, submitted to the Board of Governors in November and then filed with the Supreme Court. Except in emergency situations, the court will not entertain further rule changes for a two-year period.

• ESSAYS ARE INVITED for entering the Samuel Pool Weaver Constitutional Law Essay Competition conducted annually by the American Bar Foundation. A prize of $2,500 will be awarded to the American Bar Association member who writes and submits the best essay on "Procedural Rights and the Incorporation Doctrine." The entry deadline is November 1, 1967, and instructions may be obtained by writing Samuel Pool Weaver Constitutional Law Essay Program, American Bar Foundation, 1155 East 60th Street, Chicago, Illinois 60637.

• NINTH JUDICIAL CIRCUIT DIVIDED . . . On July 1, 1967, a legislative act amending Section 26.01, Florida Statutes, dividing the state into nineteen judicial circuits, became effective. The Ninth Judicial Circuit, formerly encompassing Orange, Osceola, Seminole, Brevard, Indian River, Okeechobee, St. Lucie and Martin counties, now is composed of Orange and Osceola counties; a new Eighteenth Circuit is composed of Brevard and Seminole counties; and a new Nineteenth Circuit is composed of Indian River, Martin, Okeechobee and St. Lucie counties. The annual directory issue of the Journal, to be distributed in September, will list the court personnel for each of these new circuits.

• THE PAPERS OF JOHN MARSHALL . . . A scholarly edition of the papers of Chief Justice John Marshall (1755-1835) is being prepared under the sponsorship of the College of William and Mary and the Institute of Early American History and Culture. Papers of his service as chief justice or of his career as an officer in the Revolutionary War and information concerning such documents are requested. Address your correspondence to The Papers of John Marshall, Box 220, Williamsburg, Virginia 23185.



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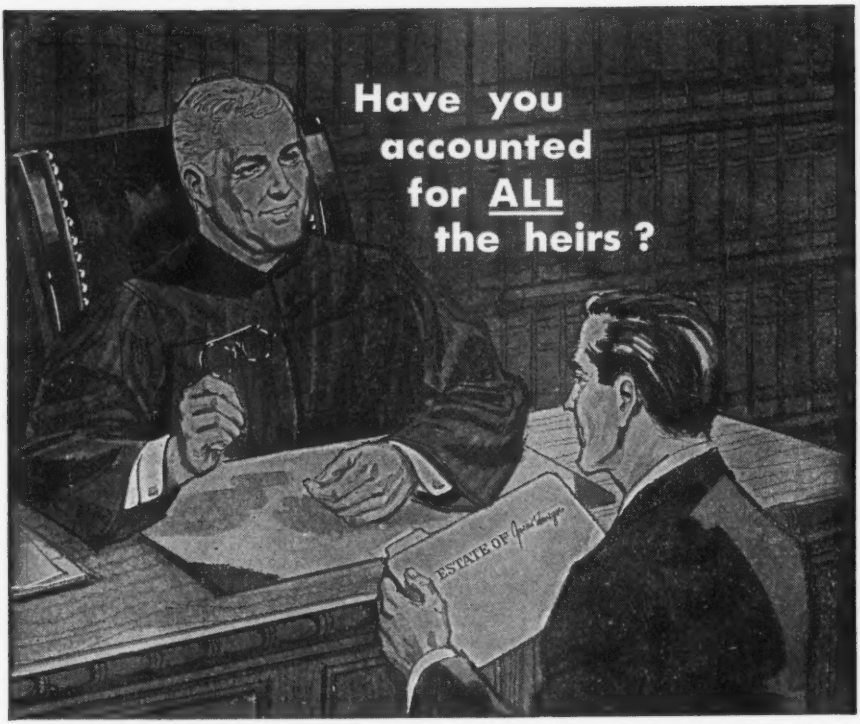

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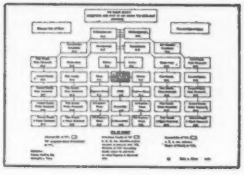

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NON-MEMBERS $1.00 PER ISSUE EXCEPT SEPTEMBER ($10.00 per copy for that issue). Published monthly except August. Second Class postage paid at the Post Office at Tallahassee, Florida, and at additional mailing offices. Views and conclusions expressed in articles herein are those of the authors and not necessarily those of the editorial staff, officials or Board of Governors of The Florida Bar. Contributors are requested to submit two copies of all manuscripts. Closing date is the 1st of the month preceding date of issue. Advertising rate card may be had upon request. Postmaster to send Form 3579 to The Florida Bar, Tallahassee, Florida 32304.

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The Cover

Fishing among the Florida Keys. Photo courtesy of Florida State News Bureau.

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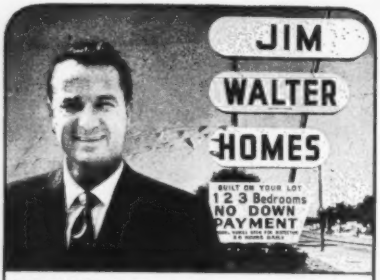

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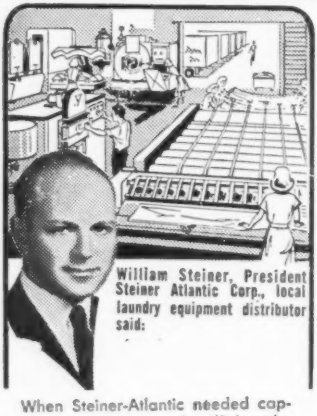

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REPORT TO YOU

Summary of Board of Governors Actions

Meeting in North Key Largo, Florida, May 18, 19, 20, 1967, the Board of Governors:

Received report of President Fletcher G. Rush on his personal appearance before local bar associations and of President-elect William P. Simmons, Jr., on his visits to local associations and his work in assigning committee membership for the new administrative year.

Heard Young Lawyers Section President Jack H. Chambers report on the Section's convention plans and career days they conducted at law schools.

Learned from the Executive Director the efforts being made to fill key positions on the headquarters staff in the continuing legal education department.

Appointed a special committee to study the client-attorney privilege as it affects corporations.

Reviewed and approved financial statement of The Florida Bar through April 30, 1967, as presented by Budget Committee Chairman Mark Hulsey, Jr.; voted that the tentative budget published in the April 1967 Journal be amended to augment miscellaneous income by $10,000 and to establish a new account #242 entitled "Section and Committee Activities"; voted that the tentative budget as published and amended become the approved and final budget for the fiscal year commencing July 1, 1967.

Reviewed financial statement of The Florida Bar Center showing assets and liabilities.

Approved as distributed by Chairman Charles A. Kimbrell the program for the annual convention scheduled for June 21-24.

Were informed of a complaint against The Florida Bar by Norman F. Dacey to certain statements appearing in an article in the March 1967 issue of the Journal; approved for publication in the Journal a correction statement.

Deferred action on recommendations of a select study committee on Legal Aspects of Economic Opportunity in regard to a proposed amendment of Article XIV of the Integration Rule.

Were informed of the Professional Ethics Committee opinion advising that no ethical improprieties existed in the proposed program of the Bar Association of Tampa and

REPORT TO YOU will appear as a regular feature in the Journal following each meeting of the Board of Governors of The Florida Bar.

Hillsborough County in establishing a non-profit corporation for dispensing legal services to indigents.

Appointed four representatives to the Attorney General's Study Committee of legal service programs for the indigent in Florida.

Learned that Special Bar-Media Committee Chairman Richard T. Earle, Jr., would file a written report before the annual meeting.

Approved Summary Claims Procedure Rules, authorized the filing of a petition in the Supreme Court for their adoption and appointed a committee to present them.

Learned that a redraft was being prepared of Probate and Guardianship Procedure Rules to incorporate changes that had been suggested.

Were informed that copies of the approved Rules of Criminal Procedure were available through the headquarters office, and that Admiralty Rules for U. S. District Courts had been circulated to interested persons for review.

Failed to secure a majority vote to approve the recommendation of the Integration Rule and By-Laws Committee amending Article III revising election procedures and calling for a maximum of 27 members on the Board of Governors.

Approved minutes of interim meeting of the Executive Committee.

Established a standing committee entitled Availability of Legal Services Committee.

Established as a standing committee the Disciplinary Procedures Committee and requested the Staff Counsel to directly assist and counsel with it.

Approved the nominees of President-elect William P. Simmons, Jr., to 36 standing and special committees and endorsed his recommendation that the Committees on Strengthening Legal Education and Legal Education and Admissions to the Bar be merged.

Approved appointees to circuit grievance committees and to circuit unauthorized practice of law committees, and approved recommended Bar counsel and referees.

Adopted by-laws for the Trial Lawyers Section of The Florida Bar.

Accepted report of Special Committee on Proposed Florida Constitution and requested that copies of written comments of the committee concerning conflicts in language or latent ambiguities be forwarded to legislative leaders.

Rejected recommendations that The Florida Bar go on record to oppose Title 2 of the Civil Rights Act of 1967 and to oppose S. 1033.

Referred to Section Activities Committee question of creation of a Judicial Administration Section of The Florida Bar.

Adopted a new legislation policy, authorizing The Florida Bar to sponsor or endorse only legislation which is important to the legal profession or the administration of justice, defining the words "sponsor" and "endorse" and limiting to six legislative measures to be sponsored in any one session.

Received status report from Chairman D. Fred McMullen on The Florida Bar's current legislative program.

Learned the status of legislation attempting to establish continuing law reform commission.

Received report that Florida's congressional delegation is working to secure funds to acquire adequate space to accommodate the Fifth Circuit Court of Appeals when it convenes in the Miami area.

Approved three petitions for retirement from members of The Florida Bar and reinstated eight members.

Received quarter-annual report of Continuing Legal Education Committee.

Failed to secure a majority vote recommending that referees in bankruptcy be robed.

Resolved to make the Bankruptcy Subcommittee a standing committee.

Received report that a petition will be drafted and filed proposing a revision of Canon 46 and that the Professional Ethics Committee will soon complete work on a compilation of ethics opinions of the past decade.

Referred to special committee studying Florida Constitution for prompt study and report back to Board recommendations presented by four members of Circuit Judges' Conference concerning Article V.

Agreed to meet July 13, 14, 15, 1967 at Homosassa Springs.

Meeting at the Fontainebleau Hotel, Miami Beach, June 21 and June 24, 1967, the Board of Governors:

Voted to authorize President to appoint a committee to study Articles V and XII of the proposed Florida Constitution to give further study and consideration to changes recommended by ad hoc committee of Circuit Judges' Conference.

Named Richard T. Earle, Jr., for a six-year term and Charles A. Kimbrell for a four-year term as representatives of The Florida Bar on the Judicial Qualifications Commission.

Amended the 1966-67 budget of The Florida Bar to pay for equipment needed and under lease by the headquarters office.

Received welcome from new President William P. Simmons, Jr., who stressed to new Board members the importance of their attendance at all Board meetings and of their advance study of materials to be considered.

Approved membership of all standing committees and ex officio committees as distributed.

Approved minor changes in by-laws of the Young Lawyers Section.

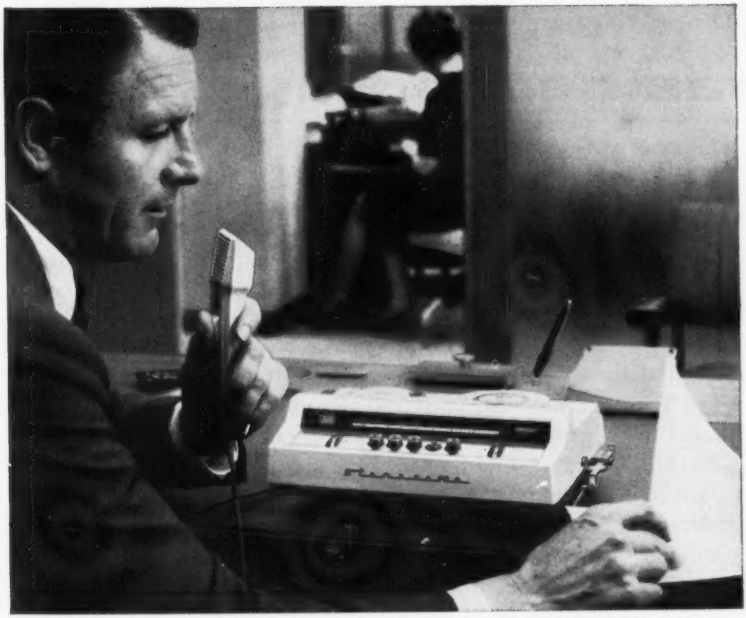
Accepted with regret the resignation from the Board of Richard T. Earle, Jr.

NOTICE OF HEARING ON PETITION OF THE FLORIDA BAR FOR ADOPTION OF PROPOSED SUMMARY CLAIMS PROCEDURE RULES

The Supreme Court will hear arguments on petition of The Florida Bar re Proposed Summary Claims Procedure Rules at 9:30 a.m., Tuesday, September 5, 1967. Copies of the petition of The Florida Bar may be obtained at the headquarters of The Florida Bar in Tallahassee, Florida.

SID J. WHITE
Clerk, Supreme Court of Florida

for the man who has everything ...but time!



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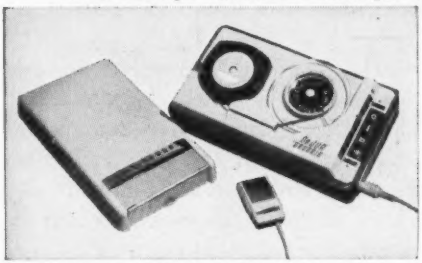

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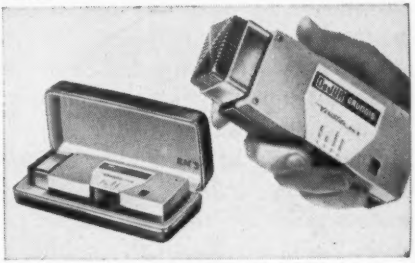

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President's Page

THE YEAR AHEAD

The activities of The Florida Bar have increased steadily during the past few years and the pace appeared to accelerate during the fiscal year concluded last month under the able and aggressive leadership of Fletcher G. Rush. Many new programs are just getting underway, and the challenge that leadership imposes is one that is both inspiring and filled with a responsibility of which I am humbly aware.

Continued success and improvement of our programs will depend largely on the diligent and effective work of members of our sections and of the many committees that I have appointed with the approval of the Board of Governors. A hard working Board will furnish guidance and establish policy. A loyal and dedicated staff of fine men and women in our beautiful new Tallahassee headquarters and in our Miami office will assist and coordinate the many activities.

Success of our programs in the long run, however, will require encouragement and support from all members of the Bar, and it behooves us to recall the high purposes for which our organization was formed. The Integration Rule approved by our Supreme Court in 1950 states that The Florida Bar "is charged with the maintenance of the highest standards and obligations of the profession of law" and that it is "to inculcate in its members the principles of duty and service to the public, to improve the administration of justice, and to advance the science of jurisprudence."

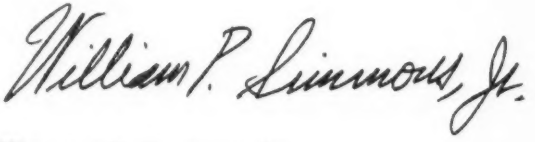
The respect with which our work has been accepted is evidenced by the increasing number of times the Bar is called on to perform specific and important tasks. The Supreme Court relies on us to study and make recommendations concerning all proposed changes and additions to the rules governing court proceedings, and our Court Rules Committee and its several sub-committees are constantly working on this important project. The legislature has recognized our ability to contribute to improvements in our government by authorizing representation of The Florida Bar on the Constitution Revision Commission and by providing, in a recently adopted constitutional amendment, for two members of The Florida Bar to serve on the new Judicial

Qualifications Commission. The Governor of Florida has called on the Bar to screen the qualifications of persons being considered for judicial appointment. The Federal Government seeks the cooperation and active assistance of the Bar in implementing that portion of its anti-poverty program which provides for assistance to those unable to pay for needed legal services. President Johnson has recently called on the members of the legal profession to exert their influence and use their talents to assist in a major effort to reduce crime in our nation and improve respect for the law.

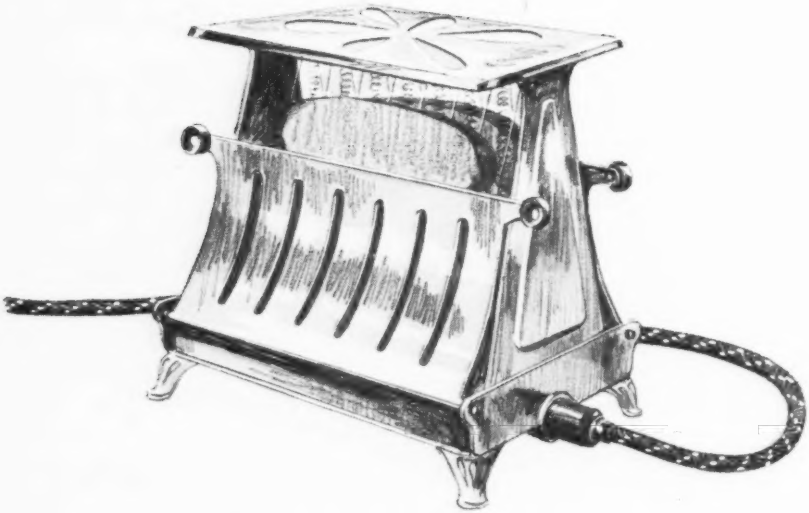
These are but a few examples of the demands being made upon us as a profession, and all are consistent with the collective responsibilities which we share as members of The Florida Bar. I call upon every attorney to be aware, at all times, of the high standards and obligations of our profession and to support the many programs of The Florida Bar and of our local bar associations designed to carry out our responsibilities.

I am grateful for the privilege and opportunity to serve and pledge my best efforts to all of you.

Sincerely,



WILLIAM P. SIMMONS, JR.
President



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Judicial system needs procedure to end language barriers to due process

The Sixth Amendment's Right of Confrontation and The Non-English Speaking Accused

BY BENJAMIN G. MORRIS

At 27, Benjamin G. Morris has had a variety of career experiences. He was administrative director of the Inter-American Institute of Political Education, San Jose, Costa Rica in 1962; was special assistant to the President of the Dominican Republic in 1963; and served as a member of the Kansas House of Representatives in 1964-1966. At present he is director of activities of The Missouri Bar, but will leave that position in September to become assistant to the dean, member of the faculty and coordinator of clinical programs within the University of Kansas School of Law. He is admitted to practice in Kansas and Missouri. This article grew out of a case Mr. Morris handled as interpreter and co-counsel while participating in the University of Kansas Legal Assistance Project. The accused understood only the Spanish language and was appealing a conviction from a trial at which the testimony was given in English.

THE SIXTH AMENDMENT to the Constitution of the United States provides in part: "In all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense." In *Gideon v. Wainwright*[1] a majority of the court held that the Sixth Amendment is applicable to the states through the operation of the Fourteenth Amendment. Volumes have been written about the impact of *Gideon* on the right of the indigent criminal accused to have court appointed counsel. There has been little or nothing written about the possible impact of applying the Sixth Amendment's right of confrontation, in the spirit of *Gideon*, to the states:

> From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which *every defendant stands equal before the law* (emphasis supplied).[2]

The right of confrontation has long been applied and carefully protected in the ordinary criminal case, where the accused is linguistically able to confront and cross-examine through counsel the witnesses against him.[3] However, in many cases the accused's non-English speaking counterparts have not been afforded the same opportunity and equal protection of the laws. In the case of the non-English speaking defendant, a more mechanical and, often, artificial

[1] 372 U.S. 335, 9 L.Ed.2d 799, 83 S.Ct. 733 (1963).

[2] *Id.* at 344.

[3] *Green v. McElroy*, 360 U.S. 474, 3 L.Ed.2d 1377, 79 S.Ct. 1400 (1959).

view of the rule of confrontation has been taken by the courts. In recent state court decisions, the courts have dismissed the confrontation problem by finding, in fact, that: (a) there was no affirmative and specific showing that the accused was unable to speak or understand English well enough to protect his own rights;[4] (b) the accused impliedly waived his right of confrontation and therein his right of cross-examination by failing to affirmatively request an interpreter;[5] (c) there was no showing whether the accused's counsel could or could not speak or understand the foreign language;[6] or (d) in absence of request at trial for designation of interpreter for the defendant, failure to make such designation could not be raised for the first time on appeal.[7] In *Salas v. State*[8] the accused was convicted of burglary in a Texas state court and he appealed. The Texas Court of Criminal Appeals held that the defendant was not *shown* to be unable to comprehend English. The court found this lack of showing even though all testimony offered by the defendant in his own behalf was given in the Spanish language, and no contradictory evidence of ability to understand English was offered. Query: What, short of an affirmative averment of lack of knowledge of the language of the forum, would overcome the presumption of English comprehension? The Texas Court of Criminal Appeals in analyzing this question held constitutional right of confrontation could be impliedly waived:

> There was no request at any time that the testimony of any of the witnesses testifying against him in English be interpreted for him in Spanish. There was no testimony, although the appellant testified in his own behalf, that he was unable to understand English; there was no testimony as to whether counsel representing the appellant could or could not make this interpretation for him.[9]

The Third Circuit Court of Appeals in *Gonzalez v. People*[10] held that the accused may waive his right to be confronted with the witnesses against him by failure to assert it in apt time.

> Furthermore the record does not indicate that the defendant's counsel moved for an interpreter at the commencement of the trial. On the contrary it does appear later, when the defendants opened their case, the district court appointed an interpreter and that the defendant Gonzalez' testimony was given through an interpreter so appointed. It has been held that an accused may waive his right to be confronted with the witnesses against him by failure to assert it in apt time (cite omitted). Where, as here the defendant fails to state to the court that he cannot understand the language of the prosecution witnesses and fails to request an interpreter, his right must be deemed to be waived. (cite omitted) It follows that the defendant's first point is without merit.[11]

If the accused's counsel could understand the witness, either directly or through an interpreter, the courts have generally held that the rule of confrontation is hereby satisfied. Absent any specific showing to the contrary the courts have often presumed

[4] *Salas v. State*, 385 S.W.2d 859 (Tex. Ct. Crim. App. 1965).

[5] *Zunago v. State*, 138 S.W. 713, 63 Tex. Crim. Rep. 58 (1911).

[6] *Salas v. State*, 385 S.W.2d 859 (Tex. Ct. Crim. App. 1965).

[7] *People v. Hernandez*, 160 Pac.2d 564 (Dist. Ct. App. Calif. 1945).

[8] *Salas v. State*, 385 S.W.2d 859 (Tex. Ct. Crim. App. 1965).

[9] *Id.* at 861.

[10] *Gonzalez v. People of Virgin Islands*, 109 F.2d 215 (3rd Cir. 1940).

[11] *Id.* at 217.

that the counsel for the defense could understand the testimony.[12]

In *Escobar v. State*[13] the Arizona court recognized the possible need for court appointed interpreters to protect the constitutional rights of a non-English speaking defendant who was accused of first degree murder. The Arizona court in this case apparently adopted a substantial justice, or a prejudicial denial test.

> We think these cases are ample to dispose of the constitutional question. If, of course, a defendant is not represented by counsel, a reasonable interpretation of the Constitution would undoubtedly require that in some manner the facts which are being offered in evidence against him be brought to his knowledge. When, however, as is stated in the *Ah Har Case*,[14] the defendant is represented by competent counsel who understands, either directly or through an official interpreter, every word uttered by the witnesses, we think the constitutional right is preserved. It is the duty of counsel under such circumstances to communicate the evidence to his client, and it is naturally presumed that he has some method of communication, or he could never have occupied the position he does.
>
> Notwithstanding the fact that the constitutional right of the defendant to meet his witness face to face is not violated by the failure of the court to furnish a special interpreter to interpret the evidence to him when he does not properly understand it, if he has counsel representing him who does comprehend it, we are nevertheless of the opinion it is the fairer and better way for the court, either of its own motion in a capital case or upon request in one of a lesser degree, to provide such an interpreter, and if in any such case the record indicates a failure to provide an interpreter has in any manner hampered the defendant in presenting his case to the jury, we shall hold a fair and impartial trial has been denied him. In this particular case, we cannot see where an interpreter could have been of the slightest avail to the appellant.[15]

In the case of *People v. Hernandez*[16] the non-English speaking defendant was convicted of assault, by means of force likely to produce great bodily injury. On appeal the court held:

> With regard to the appellant's contention that the failure to designate an interpreter for defendant's benefit was error, it is sufficient to note that no request was made at the trial for such assistance and manifestly, it is too late to raise the question for the first time on appeal. A consideration of the merits incident thereto are therefore unnecessary.[17]

The policy underlying the constitutional right of confrontation is carefully defined by Professor Wigmore in his treatise on evidence. He stated:

> So far as there is a rule of confrontation, what is the process which satisfies this rule?
>
> It is generally agreed that the process of confrontation has two purposes, a main and essential one, and a secondary and dispensible one: 1. The main and essential purpose of confrontation is *to secure for the opponent the opportunity of cross-examination.* (emphasis Wigmore's) The opponent demands confrontation, not for the idle purpose of gazing upon the witness, or of being gazed upon by him, but for the purpose of cross-examination, which cannot be had except by the direct and personal putting of questions and obtaining immediate answers.
>
> That this is the true and essential significance of confrontation is clear, from the language of counsel and judges from the beginning of the Hearsay rule to the present day.[18]

[12] *Salas v. State*, 385 S.W.2d 859 (Tex. Ct. Crim. App. 1965).

[13] *Escobar v. State*, 245 Pac. 356 (Ariz. 1926).

[14] *King v. Ah Har*, 7 Hawaii 319 (1888).

[15] *Escobar v. State*, 245 Pac. 356, 359 (Ariz. 1926).

[16] 160 P.2d 564 (Dist. Ct. App. Calif. 1945).

[17] *Id.* at 565.

[18] 5 Wigmore, Evidence §1395 (3d ed. 1940).

Professor Wigmore in §1393 of his ten-volume treatise on evidence carries the right of confrontation to a reasonable level when he discusses the corresponding rights of the non-English speaking witnesses and defendants.

> b. Where the witness testifies in a *foreign language,* or when the *opponent is an alien* not well knowing the language of the forum, the opponent is entitled to understand, so as to be able to cross-examine the witness. Hence, the *furnishing of an interpreter* becomes essential to the right of cross-examination; this corollary being as applicable in civil cases as in criminal cases, though usually emphasized in the latter cases only (cite to New Mexico Const. omitted). Injustice is doubtless being done from time to time, in communities thronged with aliens, through failure of the judges to insist on a supply of competent interpreters. The subject is one upon which the profession are in general too callous, for no situation is more full of anguish than that of an innocent accused who cannot understand what is being testified against him.
>
> Nevertheless, the varied situations which arise are too numerous to be reducible to any set of rules; and the inflexibility of fixed rules would here be inappropriate. (emphasis Wigmore's)[19]

If serious consideration is given to the intent of the "equal protection" clause of the Fourteenth Amendment to the United States' Constitution, and to the equal protection philosophy which has become one of the cornerstones of our legal system, Professor Wigmore's interpretation of the rights of the non-English speaking accused is the logical and reasonable interpretation.

The non-English speaking accused is as a practical matter in the same position as the deaf-mute defendant. In leading cases involving the deaf-mute defendant's right to confrontation, the courts have generally held that an interpreter who can communicate to the defendant the testimony offered against him should be appointed by the trial court.[20]

In *Ralph v. State,*[21] Horace Ralph was convicted of pointing a pistol at another and appealed on the grounds that due to his deafness he had not been, in fact, confronted by the witnesses against him and that the trial court had denied his counsel's plea to have the testimony taken down in writing as it was offered and shown to the defendant. The court allowed only such informal notes as the counsel might wish to write during the trial. On appeal the Supreme Court of Georgia held:

> In the proper administration of justice, however, the court shall give a person accused of a crime a reasonable opportunity to obtain the benefit of this constitutional right (confrontation). If he is deaf, such opportunity should be allowed for the communication to him of the testimony of the witnesses by sign language employed by deaf-mutes, or by writing, or in some other manner which would be reasonable and proper, under the circumstances to insure him a full and fair exercise of his legal rights. The exact manner in which this result should be arrived at must depend upon the circumstances of the case, and to a considerable extent be left to the sound discretion of the court.[22]

In the landmark case of *Terry v. State,*[23] the deaf-mute defendant was under prosecution for manslaughter. When the trial court was advised of the accused's condition the court offered to swear an interpreter, if the defendant would furnish one. The defendant was unable to do so. On appeal the Court of Appeals of Alabama held:

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[19] 5 Wigmore, Evidence §1393 (3d ed. 1940).

[20] 23 C.J.S. *Criminal Law* §1006 (1961).

[21] 52 S.E. 298 (Ga. 1905).

[22] *Id.* at 299.

[23] 105 So. 386 (Ala. 1925).

> The constitutional right (state) would be meaningless and a vain and useless provision unless the testimony of the witnesses against him could be understood by the accused. Mere confrontation of the witnesses would be useless, bordering on the farcical, if the accused could not hear or understand their testimony. So, also, as to the nature and cause of the accusation. In the absence of an interpreter it would be a physical impossibility for the accused, a deaf-mute, to know or to understand the nature and cause of the accusation against him, and, as here, he could only stand by helplessly, take his medicine, or whatever may be coming to him, without knowing or understanding, and all this in the teeth of the mandatory constitutional rights which apply to an unfortunate afflicted deaf-mute, just as it does to every person accused of a violation of the criminal law. . . . It being conceded in open court that this appellant is a deaf-mute, we hold that the court erred in not providing necessary means for communicating to him the nature and cause of the accusation, and also the testimony of the witnesses against him in order to insure him a full and fair exercise of his legal rights above referred to. The rulings of the court in this connection alone being patiently, manifestly, and highly injurious to the substantial rights of the defendant must result in a reversal of the judgment of the conviction appealed from.[24]

The similarity of the positions of these defendants who cannot know nor understand the testimony against them due to a physical defect or injury and those defendants who cannot know nor understand the testimony against them because the language and words used to give said testimony have no meaning for them is apparent. It would seem reasonable and appropriate that both abnormally, but similarly, handicapped groups should receive the same treatment. If the non-English speaking defendants received the same protection of rights granted to the deaf-mute defendants in the aforecited cases, they would have the rights and guarantees advocated by Professor Wigmore in his treatise.[25]

The court in *Terry v. State*[26] referred to the constitutional right of confrontation. The court in that instance was referring to a right guaranteed by the Constitution of the State of Alabama. However, this is, also, a right guaranteed by the Sixth Amendment to the Constitution of the United States and made applicable to the various states by operation of the Fourteenth Amendment to the Constitution of the United States.[27]

From this review of the various state court decisions, it is apparent that the right of confrontation has been regarded as an abstract right which has often been implied to be a procedural right afforded to the counsel for the defense, rather than a Constitutional guarantee *of the accused* (emphasis supplied). This guarantee should be jealously protected. If the right of confrontation and the therein contained right of cross-examination is treated merely as a protected procedural right of the defense counsel, the primary objective of furthering the pursuit of truth will not be accomplished. In many small, but important points, only the accused may have knowledge of facts which either explain or discredit the witness' testimony, and the accused would be able to raise the point only if he were fully aware of the content of the witness' testimony. It should not be deemed sufficient that the defense counsel understand the testimony. It is apparent that counsel cannot hope to com-

[24] *Id.* at 387-89.

[25] 5 Wigmore, Evidence §1393 (3d ed. 1940).

[26] 105 So. 386 (Ala. 1925).

[27] *Pointer v. Texas*, 380 U.S. 400, 13 L.Ed.2d 923, 85 S.Ct. 1065 (1965).

municate the content of all of the witness' testimony, but only that amount which he feels to be germane in the light of his knowledge of the case. Under our system of justice, the non-English speaking accused should be afforded the same opportunity of meaningful direct confrontation that his English-speaking counterpart has been afforded. The opportunity of confrontation could be extended by appointing an interpreter for the accused at the beginning of the proceedings, thereby affording the non-English speaking accused equal protection of his rights.

What are the rights of the English-speaking defendant in this area of confrontation and what has been the courts' interpretation of these rights?

In *Pointer v. Texas*,[28] the United States Supreme Court held that the Sixth Amendment's right of an accused to confront the witnesses against him is a fundamental right, essential to a fair trial, and is made obligatory on the states by the Fourteenth Amendment. Defendant Pointer was arrested and brought before a state court judge for a preliminary hearing on a robbery charge. The complaining witness testified, but the defendant, who was without the aid of counsel, did not cross-examine. The defendant was convicted and the conviction was affirmed by the highest court in the state. On certiorari, the Supreme Court of the United States reversed. In this case there was a majority opinion by Justice Black and three concurring opinions by Justices Harlan, Stewart, and Goldberg. In the majority opinion, the Supreme Court stated:

> We hold today that the Sixth Amendment right of an accused to confront the witnesses against him is likewise a fundamental right and is made obligatory on the states by the Fourteenth Amendment. It cannot seriously be doubted at this late date that the right of cross-examination is included in the right of an accused in a criminal case to confront the witnesses against him . . . There are few subjects, perhaps, upon which this Court and other courts have been more nearly unanimous than in their expressions of belief that the right of cross-examination is an essential and fundamental requirement for the kind of fair trial which is this country's constitutional goal. Indeed, we have expressly declared that to deprive an accused of the right to cross-examine the witnesses against him is a denial of the Fourteenth Amendment's guarantee of due process of law.[29]

Justice Harlan, in a concurring opinion, did not accept the constitutional theory of the majority of the Court. Justice Harlan felt that it was not necessary to hold the Sixth Amendment applicable to the states by operation of the Fourteenth Amendment. In arriving at the same final holding as the majority of his fellows, he stated:

> For me this state judgment must be reversed because a right of confrontation is "implicit in the concept of ordered liberty," *Palko v. Connecticut*, 302 U.S. 319, 325, 82 L.Ed. 288, 292, 58 S.Ct. 149, reflected in the Due Process Clause of the Fourteenth Amendment independently of the Sixth.[30]

Justice Stewart arrived at the same conclusion by yet another route. In summarizing his position, he said:

> . . . I do not join in the Court's pronouncement which makes "the Sixth Amendment's right of an accused to confront the witnesses against him . . . obligatory on the states." That questionable *tour de force* seems to me entirely unnecessary to the decision of this case, which I think is directly controlled by the Fourteenth Amendment's guarantee

[28] *Ibid.*

[29] *Id.* at 403-05.

[30] *Id.* at 408.

that no State shall "deprive any person of life, liberty or property without due process of law."[31]

It is apparent from the similar opinions, using various theories, expressed in this case that the right of confrontation and cross-examination are rights to be jealously guarded by all of the courts of this land. They are rights not to be treated lightly, but rights to be given the utmost consideration.

Another example of the extreme importance given to the fundamental nature of the right of confrontation is the case of *Green v. McElroy*.[32] In this case a security clearance previously granted to the plaintiff, a private employee, was revoked by the Department of Defense in an administrative proceeding in which the plaintiff had no opportunity to confront or cross-examine the witnesses against him, not the witnesses nor the investigators who took the statements of the witnesses. As a result of this loss of security clearance, the plaintiff was discharged from his employment and was unable to find comparable employment. The United States Supreme Court held that where serious constitutional problems are raised by administrative action it would be presumed that Congress or the President intended to afford those affected by the action the traditional safeguards of due process. In discussing the right of confrontation as one of the safeguards, the Court declared:

> We have formalized these protections in the requirement of confrontation and cross-examination. They have ancient roots. They find their expression in the Sixth Amendment which provides that in all criminal cases the accused shall enjoy the right "to be confronted with the witnesses against him." This Court has been zealous to protect these rights from erosion. It has spoken out not only in criminal cases, (cite omitted) but also in all types of cases where administrative and regulatory actions were under scrutiny.[33]

Certainly if this right of confrontation is so fundamental that the Supreme Court will hold it applicable to administrative proceedings, unless otherwise specified by Congress, it must be so basic that it could only be waived by an affirmative act of the accused and not by mere implied waiver. The "implied" waiver is an artificial court-created exception to this fundamental right of confrontation. It is "artificial" because waiver implies an intent on the part of the accused to give up a right, whereas in the majority of these cases the accused has no actual knowledge of the existence of any such right.[34] This lack of knowledge is especially true in the case of the non-English speaking accused. Most of these persons are aliens, uninformed as to the "inherent rights" built into our legal system, a legal system which was designed to give equal protection to the rights of the individual—regardless of race, religion, creed, or national origin. In a country which was settled by alien immigrants and which continues to receive hundreds of thousands of immigrants and foreign travelers annually, the problem of protecting the rights of the non-English speaking accused cannot continue to be ignored by our judicial system. In order to accomplish the goal of equal protection, our legal system must be flexible and must be able to adapt itself to fit the situation

[31] *Id.* at 409-10.

[32] 360 U.S. 474, 3 L.Ed.2d 1377, 79 S.Ct. 1400 (1949).

[33] *Id.* at 496-97.

[34] Black, Law Dictionary (4th ed. 1951) defines "waiver" as "the *intentional* or voluntary relinquishment of a *known* right (emphasis supplied).

by giving importance to the protection of the substantive rights of the individual and must not be bound by technical or artificial procedural devices.

Each English-speaking "citizen" of the United States is outraged and belligerent when he reads of the problems encountered by a fellow citizen involved, innocently or otherwise, in a crime in a foreign country in which that same person is tried and sentenced in the "foreign" country according to the "foreign" legal system. Each person can empathize and imagine himself in an alien society confronted by a strange legal system, with his future hanging in the balance of justice, and not able to understand any of the testimony being offered against him by the witnesses for the prosecution. His only contact with the proceedings would be the points his court-appointed counsel thought important enough to be communicated to him. From this vantage point, the "citizen" can better comprehend the implications of Professor Wigmore's statement:

> The subject is one upon which the profession are in general too callous, for no situation is more full of anguish than that of an innocent accused who cannot understand what is being testified against him.
>
> Nevertheless, the varied situations which arise are too numerous to be reducible to any set of rules; and the inflexibility of fixed rules would be inappropriate.[35]

[35] 5 Wigmore, Evidence §1393 (3d ed. 1940).

Bankruptcy Conference

Bankruptcy Committee Chairman Alexander L. Paskay invites interested members of the Bar and guests to attend the Annual Conference of Referees in Bankruptcy in Washington, D. C., September 10-13. Conference headquarters will be the Washington Hilton Hotel. Registration fee is $50 for lawyers and $20 for wives and children. Interested persons may register with William J. Henry, Chairman, 40 Exchange Place, New York, N. Y. 10005.

Articles for the Journal

The Journal seeks to inform the Bench and Bar of Florida about all phases of the programs of The Florida Bar and to serve as a clearing house of fact and opinion pertaining to the administration of justice and the legal profession. Readers are invited to submit manuscripts of general interest and news of developments in their localities. Articles should not be more than 3,000 words or ten pages of manuscript, double-spaced. The typewritten original and one carbon copy should be sent. All articles will be carefully reviewed but no guarantee can be made regarding publication or return. Publication of contributed articles does not necessarily imply endorsement in any way of the views expressed therein.

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Appellate Do's and Don'ts

by Judge Charles O. Andrews, Jr.
Court of Appeal, Fourth District

1. When you suffer an adverse ruling or judgment, first determine whether or not the order or judgment is appealable. If it is on a motion granting summary judgment, be sure to have the order reduced to a final judgment. You would be surprised how many appeals are from orders that have been held to be not final or appealable judgments.

2. Wait a few days to get over the shock of having a judgment or order entered against you. Then research the issues and make a determination in your own mind that you have a reasonable chance of reversal. Then file your notice of appeal.

3. Be sure to file it in time, 60 days in civil matters and 90 days in criminal matters. The time, of course, does not run during the pendency of a petition or motion for rehearing. Timely filing is jurisdictional, and there is no way that the appellate court can in its discretion recognize an appeal that is not timely filed.

4. Before you take any steps in an appellate procedure, it is advisable to consult the rule book. Relatively few lawyers are actively engaged in appellate practice. I would estimate that not more than 5% of the lawyers in Florida handle an appeal more than once every two years. The rules are changed quite often, and it is just not possible to rely upon memory to be sure that you are following the currently required procedural steps.

5. In the preparation of your notice of appeal, be sure to identify the order or judgment appealed from. Failure to do so has been held to be fatal, unless you can come within the rule of *Greyhound v. Carswell*, Fla. 1966, 181 So. 2d 638.

6. So many lawyers rely upon the clerk of the trial court to see that the record is properly prepared. This is the responsibility of the counsel for appellant, and the blame for deficiencies cannot be placed on the desk of the clerk.

7. Very often in interlocutory appeals and on motions in the appellate court counsel will come to the appellate court without making arrangements to have the record forwarded in time for consideration. The court is then in the position of having no record upon which to make a ruling. It is very simple to have the clerk forward the appeal papers or to secure them, have them certified and see that they are in the hands of the court prior to your argument.

8. The late John W. Davis, one of the truly great appellate advocates

of all time, outlined certain guides to be followed in presentations to appellate courts. He summarized his own practice by saying that he was guided by the three C's; that is, in the preparation of a brief he carefully considered Chronology, Candor and Clarity. In doing so, he presented his facts chronologically and only those facts relating to the issues raised. He was candid with the court by telling the worst as well as the best in that the court has a right to expect it and any lack of candor, real or apparent, can wholly destroy the most carefully prepared argument. The issues must be presented with clarity and in simple and concise language. 26 A.B.A.J. 895.

9. Don't weaken your presentation by blaming your partner trial counsel or your secretary for deficiencies in the trial of your case. If you think enough of your case to spend your time and your client's money presenting a brief and oral argument to an appellate court, you should have spent sufficient time familiarizing yourself with the record to properly present the strongest possible case for consideration by the appellate court, and not blame lack of knowledge or its weaknesses on someone else.

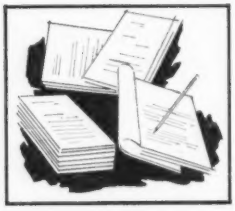
10. The amount of time that an appellate court can allocate to oral argument is grossly insufficient to properly consider all of the record and the arguments in even a rather simple case. Accordingly, the most that the counsel for the appellant can do is to so present his argument that he creates a doubt in the minds of the members of the court that the trial court was right. The appellee counsel should then be in a position to try to overcome any such doubt.

11. And last, but not least, an appellate court is not a jury and repetitious, flamboyant displays of oratory are a waste of time. Reserve your oratory for juries; don't waste it on judges.

New officers of the North Broward Bar Association were installed in Pompano Beach in May. Judge James A. Walden of the Fourth District Court of Appeal (at center) administered the oath to (from left to right) Vice President Albert E. Fletcher, Jr., President Patrick L. Bailey, Secretary Richard H. Roth and Treasurer George A. Patterson.

COMMITTEE

REPORTS



Professional Ethics

The Committee on Professional Ethics has continued to render advisory opinions to members of The Florida Bar in accordance with the policies established by the Board of Governors, and summaries of the opinions of the committee rendered since the last report of the committee published in The Florida Bar *Journal* in June 1966 are set forth below.

There apparently is some misunderstanding concerning the scope of the area in which the committee may render opinions. In essence, the policy of the Board of Governors limits the committee to the rendering of advisory opinions to members of The Florida Bar concerning their own proposed conduct. Necessarily therefore the Committee cannot render opinions to one lawyer concerning the actions of another lawyer and cannot render to anyone an opinion concerning something which has already occurred. Beyond this, the committee has traditionally declined to render opinions on questions of law. Thus the Committee ordinarily will not offer an opinion as to whether particular matters are within the attorney-client privilege inasmuch as this is a question of the law of evidence, and will not undertake to interpret provisions of a contract.

Of particular significance during the year were opinions 66-33 dealing with "bids" solicited by insurance companies, 66-56 dealing with a legal aid program financed through the Office of Economic Opportunity, 66-72 relating to representation of credit bureaus, and 67-5 dealing with lobbying before the Legislature by a partner of the legislator.

In addition to the rendition of advisory opinions, the committee during the year has made progress in the arrangement for publication of prior opinions. Opinions of the committee dating from 1959 have been collected, and with the assistance of Karl B. Block, Jr., a recent graduate of the University of Florida College of Law, the committee is engaged in the preparation of summaries and an index of these opinions with the hope that they will be published prior to the end of this year. It is presently anticipated that the initial summaries and index will be prepared by July 1, 1967.

The committee has also during the current year commenced work on a draft of a proposed petition to the Supreme Court for determination as to which version of Canon 46 is in effect in Florida. Individual members of the committee have served on

other special committees dealing with problems in the ethical field. William Reece Smith, Jr., has served on a special committee investigating legal financing programs. Thomas C. MacDonald, Jr., Henry M. Kittleson and Julian D. Clarkson have served on special committees appointed to study the salaried house counsel problem, and Julian D. Clarkson has served on a special committee which presented to the Supreme Court the petition for amendment of Canon 23. In addition, various members of the committee have appeared on ethical seminars at the University of Florida.

The chairman appreciates the diligent efforts of the committeemen during this year, and also is grateful for the invaluable assistance rendered to the committee by the staff of The Florida Bar, particularly Messrs. Cassedy, Kane, and McFarlain.

THOMAS C. MACDONALD, JR.
Chairman

SUMMARIES OF OPINIONS 1966-1967

66-19(1) It is proper for an attorney who is a director of a bank to list himself as an attorney in the public financial statement of the bank provided that the occupations of other directors are also listed. In this connection, nothing should be stated other than the fact that the director is a "lawyer," an "attorney," or an "attorney-at-law."

(2) It is not proper for an attorney to allow the name of his firm to be carried on such a statement. The firm is not a director of the banking institution, and the connection of the attorney with the firm should not be publicized.

(3) It is not proper for an attorney to be listed as general counsel for a bank when he is not a full time employee of the bank.

(4) It is accordingly not proper for a law firm to be listed as general counsel for a bank.

66-20 A lawyer who was associated in a litigated matter with another lawyer at the time of the other lawyer's disbarment may, upon conclusion of the case, share the fee with the disbarred lawyer to the extent realistically and fairly earned by him for services and responsibility before (but not after) his disbarment.

66-21 An attorney also engaged in the business of insurance adjusting as a minimum precaution should not mingle such business with his law practice physically or functionally, and is further governed by Florida Opinion 66-16 and ABA Opinion 57. In all events ethical problems undoubtedly flow from such an arrangement.

66-22 A firm formerly representing a plaintiff in litigation may not without consent of the defendant seek to enforce a decree procured for the plaintiff against the defendant at a time when the defendant was represented by another lawyer who has subsequently joined the firm as a partner. This is true even though such new partner does not participate in the enforcement proceeding. However, the firm may properly review the matter with new counsel designated to act for the plaintiff.

66-23 The canons require that a lawyer treat as confidential any information presented to him by prospective clients concerning the subject matter of the prospective employment, even though no employment and no attorney-client relationship actually develops from the communication, and even though the information was not solicited by the recipient, unless the circumstances show that it was not intended to be confidential or that confidentiality was waived. In the unique situation presented to the committee it appears that the matter communicated to the lawyer is not intended to be confidential.

66-24 There is no impropriety in the participation by an attorney in a legal aid program organized by a fraternal society, provided the program meets the criteria specified in Canon 35.

66-25 Opinion not rendered as inquiry related to conduct of attorney other than the inquirer.

66-26 An attorney may not properly display an automobile emblem indicating that the owner of the automobile is a lawyer.

66-27 Without modifying its previously expressed opinion that a practicing lawyer should not mingle an independent business with his law practice, either physically or functionally, the committee in a situation in which an attorney is a resident agent for service of process for various corporations finds no impropriety in the listing of the names of the corporations on the directory of the office building in which his office is

located, and thus using the number of his law office suite as the address for the corporation, provided: (a) that the lawyer does not deal with customers or the public as such by reason of any business connection with the corporation; (b) that the corporations do not conduct active business operations in his law office; and (c) that any business activities conducted at the office do not channel or feed professional employment to the attorney.

66-28 The committee adhered to its opinion 65-55 in connection with the continued use in a firm name of the name of a deceased partner.

66-29 It is ethically proper for an attorney to agree with a client engaged in the mortgage loan business to conduct all closings for the client at a fixed monthly compensation, the inquirer being admonished to comply with Canon 9 and to make clear to borrowers that he represents only the lender.

66-30 Although the committee is not prepared to say that it is ethically impossible for an attorney to engage in business as a "merger broker," while at the same time engaged in the practice of law, ethical risks are present. Such other business may not be mingled with a law practice either physically or functionally, and is further governed by Florida Opinion 66-16. In business activities of a merger broker the attorney should not use his professional stationery, hold himself out as a lawyer, give legal advice or perform legal services.

66-31 A part-time municipal judge may not preface his name with the title "Judge" on stationery utilized in private practice.

66-32 It is not improper for an attorney to permit use of the word "attorney" under his name in a listing of officers of a local junior chamber of commerce on its stationery when vocations or occupations of other officers are similarly used. Such stationery cannot, however, reflect the name of the firm of the attorney, nor his address or telephone number.

66-33 It is ethically improper for an attorney to submit at the request of an insurance client a proposal or bid stipulating stated fees for the handling of litigated matters for the client (without reference to any of the distinctions set forth in Canon 12), knowing that other counsel in the same area have been requested to submit similar proposals, and that the company in effect will utilize the counsel submitting the lowest proposal.

66-34 A chartered professional association may not properly use the word "associates" in its title, and the letterhead of such corporation may not indicate the office of particular attorneys in the professional association.

66-34 Supplement—The foregoing is true even if a salaried associate were to become a stockholder in the professional association.

66-35 No opinion rendered as inquiry requested interpretation of fee contract.

66-36 No opinion rendered as inquiry related to conduct of an attorney other than the inquirer.

66-37 It is not ethically proper for a group of attorneys to enter into a contractual arrangement involving wills drawn by any of the group, whereby a fee subsequently awarded or paid to a member of the group for conducting probate proceedings would be divided with the attorney drafting the will or his survivors.

66-38 It is not proper for a lawyer who is an officer, director and stockholder of a corporation engaged in the business of purchasing notes and accounts at a discount and thereafter collecting the same, to represent the corporation in such collection activities even to the extent of the filing of claims or assignment of claims in probate proceedings.

66-39 In an involved factual situation the inquirer could properly honor a client's request to represent him in a controversy stemming from a previous compromise wherein the client had been represented by other counsel.

66-40 The name of a lay office manager may not be included on a professional letterhead nor listed on a professional card, although the office manager may affix his signature on necessary correspondence on the firm stationery with appropriate indication of his capacity beneath his signature.

66-41 An attorney may not receive his fee for legal services performed in connection with the establishment of a pension fund funded by life insurance and mutual fund shares from the seller of the insurance or mutual fund shares, even though the fee is reasonable, the client consents, and the party was a client of the attorney prior to the negotiations with the life insurance agent and the mutual fund seller.

66-42 An attorney representing a claimant in a workman's compensation proceeding who is discharged by his client prior to the conclusion of the proceedings may properly present for consideration by the Florida Industrial Commission, in accordance with

such rules as may govern such proceeding, an appropriate claim setting forth such petition for fees as he may in good faith contend he possesses. Appropriate notice of such claim should be given to the former client, if not otherwise required by the rules of practice of the Commission.

66-43 Opinion not rendered because inquiry related to the conduct of a member of the Bar of another jurisdiction.

66-44(1) An attorney discontinuing his association with a firm may properly inform by a dignified announcement of the opening of his office those clients of the former firm for whom he personally performed substantial services, as contrasted with general clients of that firm for whom he performed services only on a spasmodic or infrequent basis. In all instances the matter is governed by the requirements of good taste and the over-riding requirement that the recipients should be those genuinely interested through pre-existing friendship and confidence in the attorney. Such announcement should not be utilized merely as a means of informing clients of the change of identity in the attorney in charge of a case as this is best left to the former firm.

(2) It is for the client to decide who shall represent him and there is no objection to the attorney continuing to handle cases assigned to him prior to his departure where expressly so requested by the client, and where there is no question of direct or indirect solicitation.

66-46 An attorney, who in the course of a title examination, has ascertained information essential to the clearing of title to one lot in a subdivision, may not utilize such information for purposes of obtaining a quit claim deed to other lots from other parties to himself, with the intention of issuing quit claim deeds to parties subsequently needing similarly to clear titles to such other lots in the subdivision, even though such procedure would be for the convenience of other attorneys in the locality, and only a minimum fee would be charged for the preparation of the quit claim deed.

66-47 There is no evidence of an intention in the amendment to Canon 23 to preclude a lawyer from making a brief and courteous response to casual and innocent remarks unrelated to the trial proceedings addressed to a lawyer by a juror, although the better practice is to terminate as promptly as is consistent with courtesy any such conversation, particularly until amended Canon 23 is judicially construed.

66-48 Illumination of a sign identifying the office of a lawyer is not necessarily to be condemned per se. However, where no useful purpose is served by lighting the building an attorney tenant should request that the lighting of the building be confined in such fashion that his shingle not be illuminated, or in the alternative he should relocate his sign.

66-49 Opinion pending.

66-50(1) An attorney may ethically write a book on the subject of the legal rights of women in Florida, but any lectures or book reviews rendered by the author himself must be presented in a form which does not even indirectly tend to enhance the status of the author as an attorney.

(2) A lawyer may also properly write a column in a university newspaper so long as the same is in compliance with Canon 40.

66-51 Opinion not rendered because inquiry related to conduct of another attorney.

66-52 Committee adhered to Opinion 66-19 with reference to the description of a lawyer as a general counsel of a bank.

66-53 A newly appointed county attorney may represent the county in trial proceedings of condemnation cases, wherein at a much earlier time he had represented owners of two particular parcels where the owners of such parcels had procured other counsel, the parcels owned by them had been severed from the portion of the suit to be handled by the county attorney, other counsel would represent the county in such severed portion, the presiding judge had consented to such arrangement, the county attorney in his earlier representation had acquired no special knowledge which would benefit the county or damage the land owners, and the clients and the board of county commissioners consented.

66-54 Opinion not rendered as the committee is not authorized to give opinions directly to local bar associations in the absence of a reference of such questions from the Board of Governors.

66-55 A lawyer may not ethically permit his listing in a directory not meeting the requirements imposed by Canon 27. A guide published in a metropolitan Florida community in colloboration with a local civic organization, including historical and descriptive matter, street maps, listings of various businesses and professions, and sold on newsstands does not meet these requirements.

66-56 A plan by the Tampa and Hillsborough County Bar Association for establishment of a legal aid program funded under provisions of the Economic Opportunity

Act of 1964 is to be construed as proposed and on its face. As so construed there is no ethical impropriety in the proposal.

66-57 Although the sharing of office space by a lawyer with a non-lawyer is not to be encouraged, members of The Florida Bar who rent for occasional use by an arbitrator space in their office may place on their door a legend bearing the name of the arbitrator and the expression "Arbitrator and Impartial Chairman – Not a Member of The Florida Bar." The listing must be clearly separate from the listing of the law firm, and the attorneys must be careful that the resulting arrangement does not result in a feeder to their practice, indirect advertising, sharing of professional fees or responsibilities, or any implication to visitors that the practice of the attorneys is related to the work of the arbitrator.

66-58 Opinion pending.

66-59 Opinion encompassed by Opinion 66-56.

66-60 An attorney may properly institute proceedings to enforce a non-competitive agreement prepared by him at an earlier time, even though on the occasion of the preparation of the agreement he acted for both interests concerned in formalizing an understanding already generally agreed upon, where nothing of a confidential nature was learned by the attorney from the individual against whom the agreement is to be enforced, and the operative facts surrounding the alleged violation of the non-competitive agreement will not involve events which might have come to the knowledge of counsel at the time of the preparation of the agreement.

66-61 Opinion not rendered as matter was referred to special committee of The Florida Bar considering the propriety of legal financing arrangements.

66-62 An attorney, who as assistant state attorney prosecuted a vehicular homicide case, may not thereafter represent the personal representative of the decedent in the prosecution of a civil wrongful death action arising from the same incident, and directed against the same defendant.

66-63 An attorney, who represented a testator in the drafting of two earlier wills, both of which named the same executor, and who now represents the executor in probate proceedings, may permit his partner to file pleadings on behalf of the executor in connection with a will contest, and to represent such interests as the executor may have as a disinterested party in the proceedings, even though he is of the belief that during the trial of the will contest he may be called upon to testify as to other formal matters.

66-64 A member of The Florida Bar may not properly permit himself to be listed in a legal directory as being of counsel to other law firms in Florida or in other jurisdictions, and to similarly list such of counsel relationships in his own personal listing in a national legal directory, when he is in effect a sole practitioner, and has had no prior association or partnership relationship with other firms.

66-65 Canon 27 does not necessarily forbid an attorney from arranging a speaking engagement for a client. However, where the client is one whose name is a household word, participation by the lawyer to any appreciable degree discernible to the public in the arrangements for public appearances and speaking engagements is likely to enhance the probability of employment of the attorney by parties attending the speeches and might therefore be violative of Canon 27.

66-66 No opinion rendered because the inquiry related to prior conduct of an attorney.

66-67 No opinion rendered because while under consideration other events rendered the inquiry moot.

66-68 Committee advised the Board of Governors that it opposed a proposed amendment to Canon 34.

66-69 Opinion not rendered as matter was referred to special committee of The Florida Bar considering the propriety of legal financing arrangements.

66-70 and 66-71 Taking two of a number of inquiries from the same metropolitan Florida community pertaining to the propriety of various signs, the committee concludes that as a state committee it could not undertake to pass upon the dimensions, location, style, color, illumination and other details relating to a multitude of signs, because complete resolution of such problems would require a fact finding process beyond the capabilities of the committee. The committee adheres to the general test that the sign must be designed merely to enable persons looking for a lawyer already selected to find him, and must not be intended or calculated to attract the attention of persons who might be looking for a lawyer although not for the owner of the sign. Accordingly it would be improper to display a large sign containing only the words "lawyer," "law offices" or "attorney-at-law," and for a lawyer to display a sign reflecting the presense of a notary public.

66-72 An attorney may represent a credit bureau in connection with its own affairs, but with reference to the referral of claims of individual clients of the bureau to the attorney, the committee concluded, inter alia, that it is not ethically permissible for a secretarial employee of the attorney to perform functions at the instance of the attorney from the premises of the bureau. Any arrangement involving such representation of clients of the bureau must comply with the requirements of the canons, and must avoid direct or indirect benefits stemming from solicitation or advertising by the credit bureau.

66-73 There is no ethical objection to a law firm accepting an award from a civic association recognizing fifty years of membership in the association, so long as such acceptance is passive and does not extend to recognition by press releases or similar publicity.

66-74 No opinion rendered in the absence of receipt of particulars requested from inquiring attorney.

66-75 A law firm may properly belong to a downtown council organized to promote civic interest in the downtown portion of a metropolitan community.

66-76 Canon 19 does not operate to preclude an attorney from representing a client in a second case even though a record compiled in an earlier case in which the attorney testified as a witness may be pertinent to certain issues developing in the second case including res adjudicata.

66-77 Canon 6 operates to preclude representation of one interested party in a three-vehicle automobile accident when the involved attorney had been associated with a firm which had represented another party.

66-78 An attorney served with a writ of garnishment subsequent to rendition of a judgment against his client may properly assert the attorney-client privilege and thereafter abide the order of the court if the issue of privilege be further controverted by the plaintiff.

66-79 An attorney may properly retain independent counsel to represent himself individually and as trustee to foreclose a mortgage delivered to him individually and as trustee to secure a series of promissory

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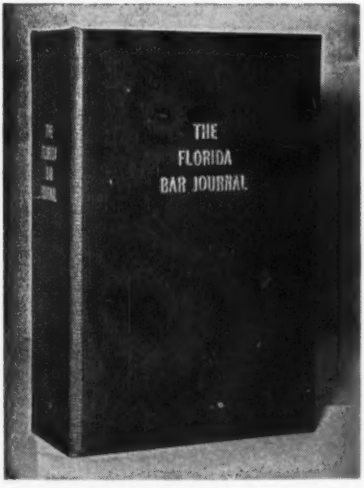

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notes executed by a client in favor of various creditors and of the attorney. Caution should be exercised as to complications which may result in the event that questions of deficiency judgments or priorities arise.

66-80 A particular form letter proposed to be sent to regular clients of an attorney is in a form violative of Canon 27.

66-81 A purported book review contravenes Canon 27 because of undue emphasis upon the prominence of the author partner of the attorney preparing the book review.

67-1 So long as the provisions of Canon 13 are observed there is no ethical objection to the charging of a contingent fee in a condemnation case in addition to the fee awarded by the court pursuant to the statutory procedure pertaining in Florida.

67-2 A partnership of Florida lawyers may not list on the letterhead of the partnership an office in another jurisdiction, when the office is not that of the partnership, but only of one partner who maintains an association with another attorney in that jurisdiction. Such office could properly be reflected on an individual letterhead of the particular partner.

67-3 Opinion not rendered pending further study of problem involved by committee.

67-4 A particular notice of availability to perform services for other attorneys in federal tax matters was not in compliance with either version of Canon 46.

67-5 A member of The Florida Bar who is a partner or associate of a member of the Legislature may not accept a retainer to perform lobbying services before the Legislature.

67-5 Supplement—The foregoing is true even though disclosure of the representation by the law firm is made during a political campaign, and the legislator-partner disqualifies himself in accordance with a rule of the Legislature from voting on matters of direct interest to the client.

67-6 A lawyer who is an elected city councilman may in his capacity as city councilman run a typical "compliments of" advertisement provided the same is in good taste, does not in any manner whatever indicate that the advertiser is a lawyer, and is in keeping with the general custom or tradition in the community.

67-7 A law firm may not display on its letterhead the name of a person who is not a member of The Florida Bar but who is a registered patent attorney authorized to practice before the United States Patent Office residing in Florida. Such law firm may not have any professional relationship with the patent attorney other than to perform legal services for the same persons to whom the patent attorney is authorized to provide his services.

67-8 A partnership may not reflect on its letterhead a reference to a former firm name, which includes the name of a former member of the firm who is now a judge.

67-9 A member of The Florida Bar may not procure a listing in a law directory not meeting the criteria set forth in Canon 27.

67-10 A member of The Florida Bar may in accordance with Canon 34 divide a fee with another attorney referring an estate planning matter to him, when that attorney also performs legal services, despite the fact that the referring attorney is also a salesman for life insurance, provided that the inquiring attorney is responsible for ascertaining that the role of the referring attorney was in fact only that of a lawyer and that no improper solicitation such as that ordinarily utilized by life insurance salesmen was involved in the initial contact with the client. There could be no division if the referring individual has made a sale of life insurance because his role would no longer be that of lawyer (the question of whether a lawyer may properly simultaneously engage in the practice and the sale of life insurance was not before the committee because the inquiry was made by the lawyer to whom the matter was referred).

67-11 Representation of an organization styled as "Estate Protection Service" wherein an attorney would prepare various trust indentures or other documents for consideration of clients of the service and on occasion represent such clients, is controlled by Florida Opinions 64-33 and 64-70, and therefore is improper.

67-12 An attorney serving as a part-time city attorney, who has a legislator partner, is not precluded by Florida Opinion 67-5 from advising the city as to the contents of existing or proposed legislation or as to the possibility or desirability of change. Any actual appearance on behalf of the city before the Legislature should be conducted by a person other than the city attorney, and if such person is also a part-time city attorney under the supervision of the city attorney, he should be separately compensated and report on his legislative activities to some city official other than the city attorney.

Unauthorized Practice of Law

This is the fourth annual report of The Florida Bar's statewide Unauthorized Practice of Law Committee since the decision that the Supreme Court of Florida alone has jurisdiction in UPL matters and The Florida Bar alone may initiate proceedings for the prevention and civil punishment of the illegal practice of law in this State.[1] It is the third report since the court adopted the new procedural rule for UPL cases.[2]

CUTLER

During the few intervening years notable changes have taken place in the treatment of UPL problems in Florida. Previously, only a small handful of members of the State UPL Committee with occasional help from subcommittees of the Real Property and Tax Sections of The Florida Bar and other standing committees, and a few local voluntary bar association UPL committees, expressed any concern and tried to do anything about the unauthorized practice of law in Florida. The committees met annually as a general rule and entrusted their chairmen with most of the responsibility. A substantial majority of our Bar did not know what the initials UPL signified!

Now literally hundreds of the members of The Florida Bar are directly concerned and active in the campaign to combat UPL. The justices of the Supreme Court have carefully planned and delineated the procedures to be followed in UPL matters. They have displayed a lively interest in the UPL cases brought before them. So have the circuit judges specially sitting with them from time to time. The court has also appointed retired members of the judiciary and active circuit judges to serve as referees in UPL proceedings. The officers and the entire Board of Governors of The Florida Bar have thoroughly considered UPL matters at every Board meeting. They have established special committees, sometimes of members of the Board and sometimes of non-members, to undertake special assignments relating to policies and procedures and to the handling of various UPL matters. They have enlarged the statewide committee. The have charged the Bar's staff with responsibilities in UPL matters, and have assigned counsel to do UPL work on a daily basis. Special Bar counsel have been employed, gratuitously of course, to handle UPL complaints before the Supreme Court and its referees. The official circuit committees, appointed pursuant to the procedures prescribed in the 1965 amendment to the Integration Rule now number many lawyers throughout all of the judicial circuits. To some extent, the Real Property and Tax Sections and Labor Law Committee have continued to demonstrate their interest and concern over the unauthorized practice of law and have offered their assistance. Local voluntary associations continue, from time to time, to offer the assistance of their local voluntary committees. With all of the interest and activity now evidenced in UPL matters, The Florida Bar may properly say that the lawyers of this state have a much better awareness of UPL problems and the duty of our

[1] North Dade Bar Association, Inc. v. Dade-Commonwealth Title Insurance Company, 152 So.Sd 723 (Fla. 1963).

[2] *In the Matter of The Florida Bar*, 175 So.2d 530 (Fla. 1965).

Bench and Bar to protect the public against UPL offenders.

The UPL message has been spread. Programs and reports at The Florida Bar's annual conventions have emphasized the new procedures, developments and responsibilities. The state committee has also met and reported at the mid-year committee sessions. In addition, it has met at numerous intervals between conventions and mid-year sessions. Attendance by members, coming from the lower East Coast across the state through the Panhandle, has been almost 100%. Members of the state committee have talked to local bar associations about UPL. They have participated en masse in the ethics sessions for law students at Gainesville. They have responded to every call of the chairman. They have been a most devoted, conscientious group of largely unsung volunteers in the labor of love for their Bar. The outgoing chairman's swansong is mainly for them and for their future encouragement.

With regard more particularly to the 1966-1967 year, the following specific items should be reported:

1. *House Counsel.* The Supreme Court declined to adopt proposed Additional Rule Number 34 to supplement the Canons of Professional Ethics which would have expressly denounced the use of "house counsel" to perform legal services for anyone other than his employer.[3] Efforts will continue to minimize or eliminate any abuses which may still exist. The committee is also studying and will soon issue an opinion as to whether non-admitted lawyers may serve as house counsel in Florida.

2. *Dade County-Notarios.* Lawyers from Latin-American countries and others who have held themselves out as "notarios" and thereby as being authorized to practice law among Spanish speaking persons in Dade County have been almost eliminated since the *Fuentes* decision, which was rendered after last year's committee report.[4] Publicity in Spanish and in English, the negotiation of local agreements, and unabated efforts and diligence on the part of Dade County members of the UPL committee are stamping out this situation. The success of this campaign should also help deter other UPL offenders in Dade County. [See discussion in Briefly Yours, Florida Bar *Journal*, May 1967, pages 289-290.]

3. *Keehley.* The Supreme Court amplified its precedent-making decision in the *Town* case[5] when the *Keehley* case came before it last year.[6] Keehley, a business broker, had prepared bills of sale, bulk sales affidavits, chattel mortgages, and other such instruments. He had also formed corporations without charge for friends and for members of his family. He had prepared minutes and various other corporate documents. In addition, he had advised on joint ownership of corporate stock. The Supreme Court condemned all of these practices. It was made clear that a business broker, like a real estate broker, could not prepare instruments beyond the initial deposit receipt or other agreement bringing the buyer and seller together. It was

[3]Opinion, Supreme Court of Florida, dated November 23, 1966, Case No: 35, 524, In Re: Proposed Addition to the Additional Rules Governing the Conduct of Attorneys in Florida.

[4]*The Florida Bar v. Fuentes,* 190 So.2d 748 (Fla. 1966).

[5]*The Florida Bar v. Town,* 174 So.2d 395 (Fla. 1965).

[6]*The Florida Bar v. Keehley,* 190 So.2d 173 (Fla. 1966).

also re-emphasized that payment for services is not a prerequisite to the unauthorized practice of law, and services rendered even to one's own family may be illegal. Perhaps the most important feature of this decision is the condemnation of advice by laymen on the methods of holding title to property, whether by joint ownership or otherwise. This case specifically applies to business brokers. It has since been followed as to a title company.[7] Estate planners, mutual fund operators and salesmen, bankers, trust companies, real estate brokers, and even the clerks of Federal Savings and Loan Associations should also take heed!

4. *Title Companies.* The *McPhee*[7] and *Bradley*[8] cases were also decided this past year. It was the *McPhee* case that the court reiterated and amplified the holding in *Cooperman v. West Coast Title Company*, 75 So.2d 818, making it clear that title insurance companies may not go beyond the steps necessary to complete title insurance commitments or to engage in "simple escrow" transactions where no title insurance is involved; where they do not draw legal documents in connection with those transactions and "do no more than carry out instructions given to them by the parties to the transaction or their counsel." In the *Columbia Title — Bradley* case, the court specifically found that the "acts complained of do constitute the unauthorized practice of law." Except for the preparation of the fiscal material in a closing statement, which the court found was "material only to the discharge of a fiduciary obligation to the seller," the court condemned all of the defendants' actions, which included the preparation of an affidavit regarding advance rents, a bill of sale, a mechanics lien affidavit, an affidavit of continuous marriage and identity, the filling in of a form of warranty deed, and participation in the closing of a transaction, notwithstanding the fact that the title company was not engaged to issue any title insurance.

5. *Estate Planners.* The committee still believes that the greatest UPL problem facing the people of Florida arises from the activities of "estate planners," including mutual fund salesmen, who are not admitted to The Florida Bar and not subject to its discipline. The pronouncements of the Supreme Court in the *Keehley* and *McPhee* cases, with regard to advice upon joint and other methods of owning property, may help in a drive to stamp out the "estate planners" abuses. No action has yet been filed by The Florida Bar against an offender, although at least one such proceeding has been authorized by the Board of Governors. Frankly, the accumulation of evidence in these cases is surprisingly difficult, especially without subpoena powers. It is of more than passing interest that the New York County Bar Association has filed suit against mutual fund operator Norman F. Dacey, author of "How to Avoid Probate," under New York's Criminal Libel Statute.

6. *Subpoena Power.* As the Bar is aware, no subpoena power presently is available in UPL matters until after a proceeding filed in the Supreme Court is referred by the court to a referee. The estate planners situation is only one instance in which it appears that UPL investigations are hampered by lack of subpoena powers. Stimulated by the recent adoption in New Jersey of a

[7] *The Florida Bar v. McPhee*, 195 So.2d 552 (Fla. 1967).

[8] *The Florida Bar v. Columbia Title of Florida and Francis X. Bradley*, 197 So.2d 3 (Fla. 1967).

UPL procedure with certain subpoena power during investigation stages, the committee is restudying the desirability of recommending similar authority in Florida.

7. *Group Legal Services.* At a meeting in March the committee took cognizance of serious developments within the ABA and bar groups in other states of a trend toward group legal services, most recently exemplified by proceedings at the mid-year meeting of the ABA in Houston during February. The following action taken at our committee's March meeting is self-explanatory:

> After extensive discussion of the aims and goals of the American Bar Association's Committee on Availability of Legal Services, the Unauthorized Practice of Law Committee of The Florida Bar, upon motion duly made and seconded, resolved the following:
>
> "Resolved that the Unauthorized Practice of Law Committee of The Florida Bar, being aware of the present trend on the state and national level, advocating group legal services, is of the opinion that the individual lawyers of this state actively engaged in the practice of law are competent to provide all legal services to the citizens of Florida.
>
> "It is further resolved that a special committee be appointed by The Florida Bar on the availability of legal services in Florida for the purpose of conducting a study to determine what legal needs of the citizens of this state are not being fulfilled by the legal profession, and how their needs may be met by the organized bar and the individual lawyer."
>
> It is the opinion of the UPL Committee that the Bar should commit itself to services for all and should go on record to do everything both in the state and nationally to reverse the current trend toward group legal services in the legal profession. The committee gave special emphasis to two questions: (1) Can individual enterprises take care of the public needs for legal services? (2) Is the present system worth saving? It was the opinion of the committee that the answer to both questions was "yes"."

The Board of Governors adopted this resolution and is presently implementing it.

8. *Scrivener's Act.* The Florida Legislature has recently enacted a law to require the name of the draftsman to be appended to each instrument drawn for recording in this State. The committee believes that, besides helping to smoke out or stamp out UPL offenders, this Scrivener's Act will also help clients to locate persons and to record corrective instruments, and will even encourage authorized practitioners to be just a little more careful in their draftsmanship.

9. *Miscellaneous.* UPL matters of numerous varieties are still pending from Key West to Pensacola and from Naples to Jacksonville. Many of them will be solved by negotiations and conferences with groups such as the bankers, CPA's, Realtors,[9] and others, possibly even including the American Institute of Architects. Some are not easy to solve, for example, the problem of handling small claims matters for corporations and other items in courts of lesser jurisdiction. The rule of law is clear — only Florida lawyers may practice law in Florida, regardless of the popularity of the cause, the amount involved, and the formality of the court.

CONCLUSION

This brings the chairman of the committee to the conclusion of his last report as chairman. The work has been challenging. The results have even been gratifying, despite an ample quantity of frustrations. The depth of interest on the part of the court, the successive presidents and boards of governors of The Flor-

[9]President Fletcher G. Rush's talk to the Realtors as reported in the March 1967 *Journal* was a giant step in this direction.

ida Bar, the staff, and the fellow members of the committee, as well as our warm associations, have been appreciated.

One major challenge remains. Will The Florida Bar provide competent legal representation in all causes, whether popular or unpopular, interesting or uninteresting, profitable or unprofitable? Only by doing so will it perform its duty to protect the public against the unauthorized, unqualified and undisciplined practice of law by laymen and to maintain an unsocialized legal profession.

EDWARD I. CUTLER,
Chairman

Bankruptcy Subcommittee

On August 4, 1966, your chairman submitted a memorandum to all committee members for the purpose of outlining the general areas in which the subcommittee was to work in the coming year. In preparation of the General Committee Meeting held in St. Petersburg, your chairman created two working groups, one headed by Robert Paul, involving the members from the Miami area, and the second headed by your chairman, involving the members from the Northern and Middle District of the State.

At the preparatory meetings the subcommittee agreed on the agenda which we were to discuss at the General Committee Meeting in St. Petersburg.

At the General Committee Meeting the Subcommittee took the following actions:

1. Agreed to propose remedial legislation with regard to cancellation of judgments obtained against bankrupts on dischargeable debts and your chairman directed Mr. Gordon and Mr. Bray to submit a proposed draft in final form which in turn could be submitted to the Legislative Committee.

2. The subcommittee agreed to establish liaison with the Real Property Section and request said section to consider the establishment of statutory methods of recording the trustee's reports of exempt property and orders approving the same; also to record the orders approving the trustees' bonds.

3. The subcommittee generally agreed that Section 17 of the National Bankruptcy Act should be amended to provide that the dischargeability of debts shall be determined exclusively by the bankruptcy courts rather than the state courts.

4. The subcommittee also proposed to consider sponsoring an amendment to Section 19 of the National Bankruptcy Act with view of eliminating jury trials in involuntary bankruptcy cases, but the subcommittee failed to agree on the advisability of such action, therefore, the subcommittee decided to drop further consideration of the amendment.

5. The subcommittee further considered the advisability of promoting federal legislation to provide for limited direct contempt power for referees, but inasmuch as there is no concrete legislation prepared which could be considered, the subcommittee decided to drop any further consideration of such legislation until a bill is introduced into Congress.

6. The subcommittee unanimously agreed that referees in bankruptcy shall be robed and the subcommittee requested the Board of Governors to formally express this view to the chief judge of each district in the State of Florida.

7. The subcommittee agreed to establish liaison with the Unauthorized Practice Committee with regard

to strengthening Chapter 559.10, commonly referred to as the "budget planning statute," to eliminate currently prevailing abuse.

Your chairman requested Mr. Gordon of Tampa and Mr. Bray of Jacksonville to prepare the proposed legislation dealing with cancellation of judgments of record obtained against bankrupts on discharged debts. After the receipt of the final draft the same was submitted to our parent committee, the committee on Corporation, Banking and Business Law, for their consideration. The reaction of the parent committee was mixed and we failed to obtain unanimous approval of the proposed legislation; therefore, the draft was never submitted to the Legislative Committee.

Subsequent to the October meeting, the membership of our subcommittee was enlarged and several interested attorneys were put on the subcommittee by the president. Our additional members are James E. Yacos, Referee in Bankruptcy in Miami, Ben Booher of Miami, Irving Nathanson of Cocoa, Herbert Buchwald of Hialeah, John Gunn of Miami and Linton S. Waterhouse of Orlando.

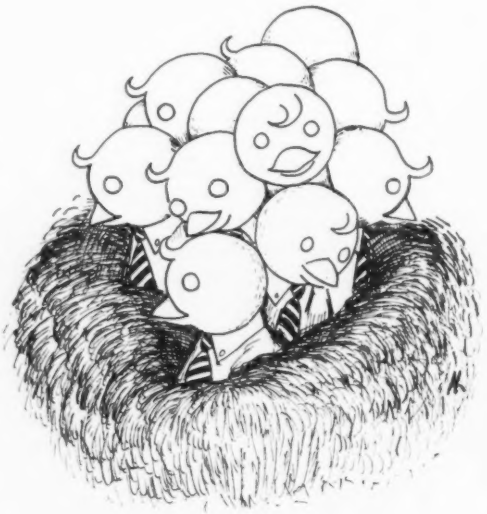
Your chairman felt it advisable to give further study to the legislation previously prepared and rejected by the parent committee and for this purpose called a mid-year meeting to be held in Miami. The meeting was held in the offices of James E. Yacos who was kind enough to permit us to use his facilities. The subcommittee meeting was well attended and the subcommittee considered the following items:

1. A possible revision of a previously submitted legislative act dealing with cancellation of judgments of record obtained against bankrupts of discharged debts.

2. A discussion of the advisability to repeal or to amend the presently existing statute dealing with general assignment for the benefit of creditors.

A Legal Ornithology

New Admittee Birds—These little fellows are hatched twice yearly in Florida. Bright-eyed and often identical in appearance, they do not always have equal skill and endurance. When they leave the nest, some will soar to great heights and some will be forced to fiercely flap to stay aloft. The state's five legal aviaries, and some out-of-state ones, trained them well in theory, but the first judge they confront will probably ruffle their feathers a bit. With good practice, they will become admirable members of the covey.



3. A discussion of the proposed local bankruptcy rules for the Middle District of Florida.

At the conclusion of the meeting the subcommittee unanimously agreed upon the need for the proposed legislation and your chairman appointed Mr. Paul of Miami to prepare the final draft to incorporate all the revisions we agreed upon at the Miami meeting. As soon as the draft is finished the same will be re-submitted to the parent committee for consideration.

Prior to the mid-year meeting your president appointed Victor Cawthon from the Northern District of Florida to serve on our subcommittee and he was present at the meeting.

The subcommittee unanimously agreed at the Miami meeting to request the Board of Governors to establish an independent committee for bankruptcy. The members of our subcommittee feel that the steady increase of bankruptcy matters in the State of Florida would warrant such an action and due to the highly specialized and particular nature of bankruptcy practice our subcommittee could not function meaningfully if any action it might take would have to be approved by the parent committee whose interest in bankruptcy matters is frequently very remote and whose familiarity with bankruptcy problems due to the lack of exposure is minimal.

The new Local Rules for Bankruptcy Practice and Procedure which were prepared by your chairman were also considered and fully discussed with the committee appointed by Chief Judge Fulton for the Southern District, and some of the ideas received were incorporated in the final revision of the rules. Your chairman is happy to report that the Local Rules were considered by the Judicial Conference for the Middle District just held in Orlando and approved and soon will be promulgated by the judges and made official.

ALEXANDER L. PASKAY
Chairman

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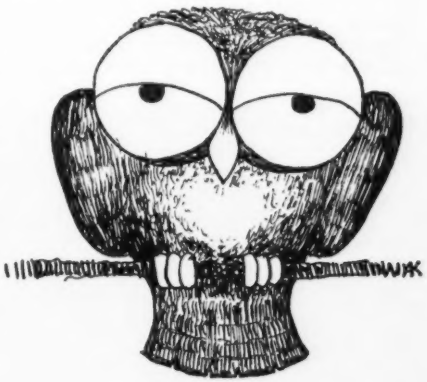
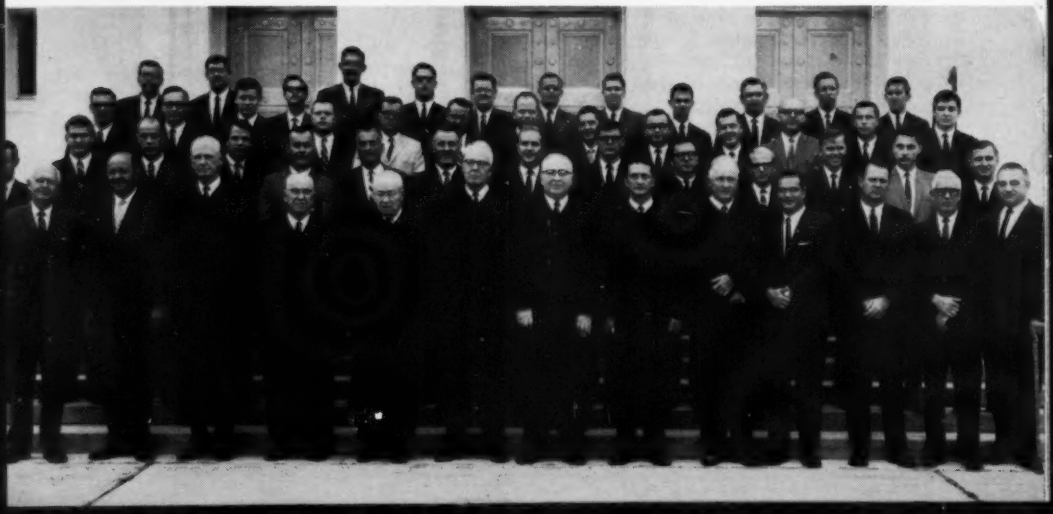
for Bird Watchers



The Wise Old Hoot—He is a member of a widespread clan of oldtimers who possess a noble visage and a distinguished lineage. In the passage of time, the clan is regularly replenished so that their numbers never seem to diminish. They preside with dignity and wisdom at bar receptions and conventions. Youngerbirds seek the vocal company of the Wise Old Hoots, delighting in the legal tales of the old days when the law was wild and rugged during Florida's "boom" years of the 1920's. All hail the Hoots, for they are part of our living tradition!

This group took the lawyer's oath at the Second District Court of Appeal in Lakeland.

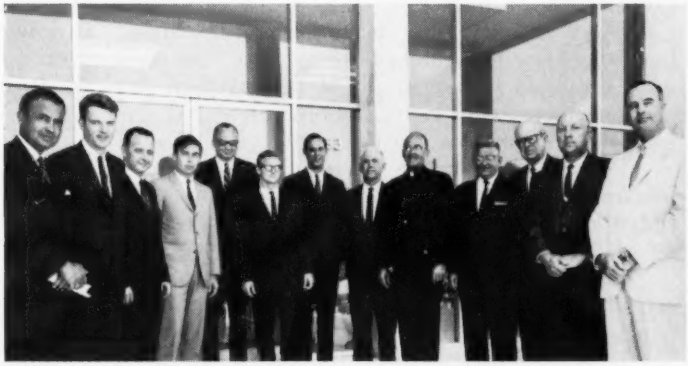
At the Supreme Court in Tallahassee, Circuit Judge Samuel S. Smith, in presenting the welcome from The Florida Bar, related the progress made during the past 17 years in the over-all administration of justice in Florida. He challenged the new members to develop and maintain a love for the law and strive to continue its heritage.



June 2 Admissions Increase Florida Bar Membership to 10,127

In ceremonies at the Supreme Court and three district courts of appeal, 194 lawyers were admitted to The Florida Bar on June 2, bringing the total membership to 10,127.

The smallest group assembled at the Fourth District Court of Appeal at Vero Beach where Judge Spencer C. Cross administered the oath. Jerry Billings (at center), a past president of the Young Lawyers Section, welcomed the group on behalf of The Florida Bar, and Frederick M. Hitt responded. Judge Charles O. Andrews, Jr., gave the principal address.



Induction ceremony for the Miami area was held in the Third District Court of Appeal courtroom. The oath was administered by Judge Charles A. Carroll and President-elect Marshall M. Criser gave the welcome on behalf of The Florida Bar. Gerald Thomas Bennett responded for the new admittees and Judge James Lawrence King addressed the group.

A Roundup of

Law Day Observances

DOZENS OF local bar associations from the Northwest Panhandle to the Southern Keys of Florida sponsored Law Day programs during the last week of April and the first week of May.

☆ The Society of the Bar of the First Judicial Circuit had Alphonse G. Condon, Jr., of Pensacola as Law Day chairman. His committee provided Law Day speakers for civic clubs and schools, distributed "Religion and Law" booklets to churches, glued Law Day stickers on outgoing law-office mail, arranged for posters to be displayed in store windows, organized spot announcements over radio stations, presented a 30-minute TV program, and used six billboards to tell the public about Law Day.

Former Florida Bar President Chesterfield H. Smith of Lakeland was featured speaker at a Law Day luncheon at which First Judicial Circuit Judge Ernest E. Mason presented a Liberty Bell award to Charles A. Schuster of Pensacola.

First Circuit Law Day chairman Condon said this year's program "received tremendous backing from local news media. . . . This year's celebration was a marked improvement in number and in participation."

In another part of the First Circuit the Rev. W. W. Thrower authored an article, "The Place of Law in Life and Society," for the Milton *Press-Gazette* of Santa Rosa County.

☆ The Okaloosa-Walton County Bar Association had three Law Day chairmen – Ben L. Holley of Crestview, Jere Tolton of Fort Walton Beach, and John F. Harris of Valparaiso. In their two-county area they sponsored civic club talks, programs for 600 high school students, leaflets and poster distribution, radio announcements, a Law Day banquet, and arranged for Law Day proclamations to be issued by mayors throughout the area. Their report said: "Based on the premise that one-half of our population is below the age of 25, we attempted to direct our program to the high school-level citizens."

☆ Law Day chairman for the Tallahassee Bar Association was C. Graham Carothers.

The Florida Government Bar Association of Tallahassee teamed with FSU College of Law students to sponsor a Law Day speech by former Governor LeRoy Collins. At a banquet preceding Collins' talk, Government Bar Law Day chairman Alex D. Littlefield, Jr., presented FSU law student John Guerriero of Fort Pierce an award for writing the best essay in a student

contest that had "no man is above the law, and no man is below it" as a theme. Said Littlefield: "The enthusiasm of the law school students exceeded all expectations."

☆ The Third Judicial Circuit Bar Association had S. Austin Peele of Lake City as overall coordinator, with regional aid in the seven-county circuit from John Doyle Thomas of Cross City, Randell H. Rowe, Jr., of Madison, L. Arthur Lawrence, Jr., of Live Oak, and Frank Gafford of Lake City. Included in their promotional work were Law Day proclamations by government officials.

Statewide Law Day coordinator John E. Norris of Lake City was the featured speaker at a meeting of the Branford Men's Club. He spoke on "Being a Good Citizen."

☆ In Nassau County, Law Day chairman Thomas G. Hall of Fernandina Beach arranged for newspaper and radio publicity and civic club talks.

☆ Organizer of the Jacksonville Bar Association's Law Day program was Norman P. Freedman. He arranged for 16 businesses to sponsor a four-page Sunday supplement in the Florida *Times-Union* that dealt with Law Day. Radio and TV spot announcements also were utilized. At the Duval County courthouse, members of the Bar presented a mock trial for high school students. Ralph Nimmons and Ronald Palmer directed the "backstage" planning, while Hans G. Tanzler, Jr., acted as judge, Samuel Jacobson played the role of prosecutor, and Silas Thompson Tygart, Jr., was the defense counsel.

☆ Paul L. Martz, Jr., of St. Augustine was Law Day chairman for the St. John's County Bar Association. Samuel V. Holch of Palatka was Law Day chairman for the Putnam County Bar Association.

☆ In the Eighth Judicial Circuit, James D. Salter of Gainesville was Law Day chairman. His committee used billboards and mail-cancellation stamps

Governor Claude Kirk signs a Law Day proclamation as Representative Quillian S. Yancey of Lakeland (left) and Lake City attorney John E. Norris (right) watch. Yancey is chairman of the Bar committee which sponsors the May 1st observance and Norris served as statewide coordinator of Law Day 1967.

to inform the public of Law Day. But the main effort was aimed at the churches of the six-county circuit. All churches were given copies of the booklet "Religion and Law," and ministers were encouraged to devote their sermons to Law Day themes. In Gainesville a special church program was presented, with Circuit Judge James C. Adkins and attorney Winston E. Arnow as featured speakers.

☆ Civic club talks and window displays were emphasized by the Marion County Bar Association. An essay contest produced 30 student participants. The winning essay was printed by the Ocala *Star-Banner*. "The essay contest was particularly effective," said Law Day chairman Donald N. Denson of Ocala. "Local banks made $25 bonds available to winners of each group."

☆ Law Day co-chairmen Harvey Jernigan and Bruce Clary of DeLand set up tours of the Volusia County courthouse and arranged for attorneys to make school talks about law. In Daytona Beach, Volusia County Law Day chairman John R. Tamm supervised a Law Day program that included three billboard advertisements, numerous posters in store windows, six talks by lawyers to 2,500 students, spot announcements over seven radio stations, and 34 promotional messages over WESH-TV. Florida Bar President Fletcher G. Rush of Orlando and Volusia County Bar President James R. Wilson of Daytona Beach appeared on a special TV program that dealt with Law Day. The mayors of seven communities in the county issued Law Day proclamations.

☆ The Seminole County Bar Association, with Wallace H. Hall of Sanford as chairman, relied on practical methods of promotion of Law Day. "I feel our observance was worthwhile and effective, although no unique programs were involved," said Hall. Attorneys Joe Davis, Thomas Freeman, Kenneth McIntosh, and Hall made Law Day talks before civic clubs in Sanford. Newspaper advertisements and radio spot announcements kept the public informed. The Seminole County Bar and the Sanford Jaycees co-sponsored a student essay contest on Law Day. The Bar published and distributed a manual on local government affairs.

☆ In the Orlando area the Orange County Bar Association presented a widespread Law Day promotional campaign designed to reach almost everyone. Chairman Michael R. Walsh's committee sponsored speakers for civic clubs and schools, tours of the courthouse, instructional visits to the county jail and sheriff's office, 125 posters, six billboards, seven library displays, mail-cancellation stamps for two weeks, and a mock trial at the Orange County Courthouse with John M. Robertson as prosecutor and Hubert Williams as defense counsel.

A large Law Day banner was erected over the main intersection of downtown Orlando, and 3,000 Law Day stickers were placed on outgoing mail from law offices. Florida Bar President Fletcher G. Rush was the featured speaker at naturalization ceremonies, with U. S. District Court Judge George C. Young presiding. Rush, University of Florida Law Dean Frank E. Maloney, and Ninth Judicial Circuit Judge Parker L. McDonald appeared on TV to talk about Law Day. John A. Reid, Jr., directed a series of lectures at Orlando Junior College.

Orlando station WFTV-TV presented a Law Day editorial three times

on May 1. The Orlando *Star* printed special articles dealing with Law Day themes by Florida Tech President Charles Millican, Methodist minister John Fletcher, Juvenile Court Judge D. Arthur Yergey, Chamber of Commerce President Grover Bryan, and Martin Company executive George Smith. And Orlando *Star* columnist Bruce Dudley plugged Law Day events four times in two weeks.

When it was all over, Law Day chairman Walsh reported: "This year the Orange County Bar Association planned an entire Law Week. It was a 'first' for the Orange County Bar, and we are happy to report that more members of the Bar and non-Bar volunteers participated than ever before."

☆ The Osceola County Bar Association had R. Stephen Miles, Jr., of Kissimmee as Law Day chairman.

☆ A series of 13 law seminars for laymen were held in Cocoa in the weeks prior to Law Day by the Brevard County Bar Association and the Brevard *Sentinel-Star*. The last occurred on May 2. Law Day chairman Stanley R. Andrews of Titusville scheduled high school programs, speeches by judges at the courthouse, and proclamations issued by city and county commissions. In addition to news stories about those events, the Melbourne *Times* made room on its editorial page on May 1 for a Law Day editorial.

☆ Supervising the Highlands County Bar Association's Law Day activities was Andrew B. Jackson of Lake Placid. The mayors of Lake Placid, Sebring, and Avon Park issued special proclamations for May 1.

☆ At Lakeland the Tenth Judicial Circuit Bar Association and the Lakeland Bar Association sponsored a Law Day exhibit.

☆ The mayor of Plant City named May 1 as Law Day and issued a proclamation to stress its importance.

☆ Wayne L. Cobb of New Port Richey was put in charge of Law Day events for the West Pasco County Bar Association.

☆ The Bar Association of Tampa and Hillsborough County came up with a wide variety of activities to emphasize the annual observance. Under the direction of chairman William F. Garcia, a Bar committee launched a program that included 10 billboard advertisements, display of 50 posters, distribution of 30,000 envelope stickers and 1,000 leaflets, civic club talks, high school speeches, church programs, participation in naturalization ceremonies, radio spot announcements, a Liberty Bell award, use of mail-cancellation stamps in post offices, and a mock trial at Robinson High School, with Criminal Court Judge Walter Burnside, Jr., presiding.

The Bar and the Palma Ceia Junior Woman's Club co-sponsored a "Law For Women" seminar, with attorneys Ted Taub, Henry Toland, Mrs. Josephine H. Stafford, Bill Gruman and James Kynes as speakers.

Attorney General Earl Faircloth was the featured speaker at a Law Day luncheon that received statewide publicity. It was sponsored by the Bar, the Chamber of Commerce, and the Junior Woman's Club.

Proclamations were issued by the mayors of Tampa and Temple Terrace. The Tampa *Independent* printed the Temple Terrace proclamation, and the Tampa *Times* published a Law Day editorial on May 1. The Hillsborough County Commission also issued a proclamation.

One of the most unusual Law Day events was presented by the Tampa-Hillsborough Bar – a flower show that had unique gardening displays which symbolized courts, judges, law, freedom, and Americanism.

☆ The St. Petersburg Bar Association also had widespread Law Day activities. Four billboards, 60 store window posters, 12 civic club talks, four school speeches, four church sermons, mail-cancellation stamps, and newspaper publicity highlighted the efforts of chairman Seymour Gordon. A mock trial was telecast over WEDU-TV under the direction of attorney Robert Shingler. A law seminar was held for high school students at the University of South Florida.

A Liberty Bell award was given to St. Petersburg Senior High School teacher Mrs. Clara Read. Florida Bar Public Relations Committee chairman Bob Beach made the presentation at a luncheon, with Florida Presbyterian College President William H. Kadel as the main speaker.

A legal newspaper, the Pinellas *Review*, presented two full-page Law Day advertisements, one smaller advertisement, and front-page coverage for the annual observance. "The effectiveness of Law Day can only be measured by the interest which is demonstrated by the general public," said Chairman Gordon. "In view of this year's response it would appear that much civic good was accomplished."

☆ In Clearwater the Law Day chairman was Kenneth A. Sunne. Former ABA President Charles S. Rhyne of Washington, D. C., delivered the main address at a luncheon sponsored by the Bank of Clearwater and the Clearwater Bar.

☆ C. Eugene Donnelly of Bradenton was chairman of the Manatee County Bar Association's Law Day program that featured numerous speeches. A team of 20 members of the Bar made 32 school talks, presented three radio programs, and conducted a program for Boy Scouts. Also 46 churches were encouraged to present Law Day sermons. "Results have been extremely gratifying," said Donnelly.

☆ The Sarasota County Bar Association, with David G. Bowman, as chairman engaged in courthouse tours for 800 ninth-grade students, three high school mock trials, and 20 civic club talks. Radio spot announcements, news stories, and a newspaper editorial kept the public informed.

☆ Charlotte County Bar Association Law Day chairman Jack R. Schoonover of Punta Gorda arranged for lawyers to address civic clubs.

☆ In Lee County the Fort Myers *News-Press* allowed Law Day chairman Travis A. Gresham, Jr., to publish a May 1 guest editorial. Circuit Judges Archie M. Odum and Lynn Gerald and members of the Bar presented a mock trial. J. C. Adderly was in charge of Law Day activities in the Lehigh Acres part of Lee County. At Cape Coral the Epiphany Episcopal Church devoted a Sunday service to "Religion and Law."

☆ Judge Erlynne D. Hixon of Naples was director of Law Day activities for the Collier County Bar Association. Attorneys Ben Parks, Robert B. McDaniel, William Gracely, Walter Sorokoty, David Springler, Clarke Nichols, and Murphy Combs directed student tours of the courthouse. High school

talks were given by Chris Sapp, Robert Hagaman, James Elkins, George Vega, Richard Lansdale, and Stanley McDonald. There were 453 entries in a Bar-sponsored essay contest, with the winning essay printed in the local newspaper. The Bar also held a poster contest and displayed the entries in banks.

☆ James T. Carlisle of Vero Beach was Law Day chairman for the Indian River County Bar Association.

☆ A mock trial "was our most rewarding effort," according to Martin County Bar Association chairman Thomas H. Thurlow, Jr., of Stuart. Participants in the trial were Circuit Judge C. Pfeiffer Trowbridge, County Judge Mallory L. Johnson, County Prosecutor William Oughterson, William F. Crary, and Alton S. Beasley. Judge Trowbridge also spoke on Law Day to the Kiwanis Club of Stuart. The mayor of Stuart issued a Law Day proclamation. Several ministers delivered Law Day sermons at the suggestion of the Bar.

☆ The South Palm Beach County Bar Association's Law Day chairman was Joel T. Strawn of Delray Beach.

☆ The Palm Beach County Bar Association chairman was William C. White of West Palm Beach. He said that "this year's Law Day observances were the most effective in this association's history." The program included four billboard advertisements, six civic club talks, five school assembly programs, three church programs, advertisements in four newspapers, spot announcements over eight radio stations, mail-cancellation stamps on 2,725,000 pieces of mail in April, 125 store window displays, a TV panel show, a mock trial, courthouse tours, and participation in a naturalization ceremony. Secretary of State Tom Adams was the key speaker at a luncheon where a Liberty Bell award went to Jack E. Keitzer of Boca Raton.

☆ Judge Raymond J. Hare of Fort Lauderdale was chairman for the Broward County Bar Association which sponsored an essay contest, set up store window displays, presented a mock trial in Hallandale (with City Judge Karl Adler presiding), and made talks to civic clubs.

☆ The South Broward Bar Auxiliary handled tours of the courthouse and treated Bar members to a dinner aboard a cruise ship. Jerome F. Pollock of Hollywood was chairman for the South Broward Bar.

☆ In the Miami area several bar associations put on a varied program of Law Day events.

☆ The Florida Association of Women Lawyers, with Gwendolyn Cherry of Coconut Grove as chairman, distributed posters, participated in radio programs, and handed out "Canons of American Citizenship" at naturalization ceremonies. Florida Bar President-elect William P. Simmons, Jr., of Miami was the main speaker at the ceremonies for 200 new citizens, and U. S. District Judge Clyde Atkins administered the oaths.

☆ Attorney General Earl Faircloth was the main speaker at a Law Day luncheon co-sponsored by the Dade County Bar Association, University of Miami law students, and Tiger Bay Club. J. B. Spence and James L. Armstrong were Law Day chairmen for the Dade County Bar.

☆ A band concert, an essay contest on judicial reform, a mayoral proclamation, a radio program, leaflet distribution, and a reception for lawyers highlighted the program of the South Miami Bar Association. Julius H. Erstling was chairman.

☆ Miami Beach Bar Association chairman Leonard O. Weinstein arranged for five school assembly talks, courthouse tours, civic club talks, proclamations by mayors of three communities, and distribution of "Religion and Law" booklets to 26 rabbis and ministers. U. S. District Court Judge Ted Cabot was the featured speaker at a Bar luncheon. The entire program "was most effective," said Chairman Weinstein. "The response was great."

☆ Bruce S. Schwartz of North Miami Beach was Law Day chairman for the North Dade Bar Association. Thomas Davison III was chairman for the Coral Gables Bar Association. William G. Wetzel, Jr., of Hialeah was chairman of the Hialeah-Miami Springs Bar Association program. In Homestead, Irving Peskoe was Law Day chairman.

Students in Key West schools heard talks by members of the Monroe County Bar Association. Speakers were Circuit Judge Aquilino Lopez, Jr., Hugh R. Papy, Ralph E. Cunningham, Jr., Bill G. Chappell, Jack A. Saunders, and Kenneth H. Smith. Florida Bar Board of Governors member W. Curry Harris spoke to members of the Kiwanis Club. The daily Key West *Citizen* ran a banner headline across its front page on May 1 that said "Congratulations to our legal fraternity on Law Day." Paul E. Esquinaldo was chairman for the program.

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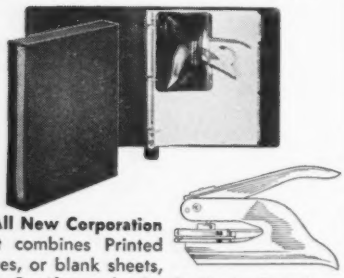

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List of Current Applicants

For Admission to The Florida Bar

As of May 25, 1967, the following is a list of current applicants, with their schools and graduation dates, for admission to The Florida Bar.

All members of the Bar are urged to contact the Florida Board of Bar Examiners, Supreme Court Building, Tallahassee, Florida, about any of the following individuals and comment on their fitness and qualifications for admission to The Florida Bar. All information is treated as confidential.

FLORIDA

Atlantic Beach
Fowler, Lloyd Buck, Emory Univ., 1967

Bradenton
Deitrich, David Keith, U. of Florida, 4/67
Matthews, David Turner, U. of Virginia, 1967

Bradenton Beach
Shell, Jerry Bouvard, U. of Florida, 1967

Brandon
Thrasher, Elwin R., Jr., U. of Florida, 1967

Clearwater
Campbell, Frank Allen, Jr., Duke U., 1967

Cocoa Beach
Ciener, Daniel S., U. of Florida, 1967
Vaughan, Larry Barnett, Indiana Univ., 6/66

Coconut Grove
Coon, Donald M., U. of Miami, 6/67
Lyons, Bruce Martin, U. of Miami, 6/67

Coral Gables
Abrams, Ira, U. of Miami, 6/67
Altman, Allen D., U. of Miami, 6/67
Bazel, Barry Kenneth, U. of Miami, 6/67
Benitez, Rafael C., Georgetown U., 6/49
Compson, Richard Gray, U. of Miami, 6/67
Fleck, J. Larry, U. of Miami, 6/67
Grace, Angus Douglas, Jr., U. of Miami, 6/67
Green, Clinton Marvin Tyler, Stetson U., 1967
Hermann, Emma Charlene (Miss), U. of Miami, 6/67
Herskowitz, Jack Louis, U. of Miami, 6/67
Jameison, John H., Jr., Stetson U., 1967
Jones, Grant Lee, U. of Florida, 1967
Krause, David M., U. of Miami, 6/67
Kritcher, Lawrence Nye, U. of Miami, 6/67
Lehrman, Jeffrey Edward, U. of Miami, 6/67
Leviton, Robert L., U. of Miami, 6/67
Markwell, William I., Jr., U. of Miami, 6/67
Monaco, Daniel Robert, U. of Miami, 6/67
Oritt, Michael H., U. of Miami, 6/67
Pardee, James Lee III, U. of Miami, 6/67
Randol, William Lyles, Jr., Stetson U., 1967
Redlus, Burt Edward, U. of Miami, 6/67
Rodgers, Lawrence Bruce, U. of Miami, 6/67
Ruel, Golden J. P., U. of Miami, 6/67
Spizz, Harvey Warren, U. of Miami, 6/67
Steinberg, Peter John, Boston U., 5/66
Stewart, Guy, Jr., U. of Virginia, 1967
Stoller, Eric Chester, Harvard U., 1967

Daytona Beach
Murphy, J. B., Jr., U. of Florida, 1967
Smith, Horace, Jr., Cumberland School of Law, 5/67

DeFuniak Springs
Stinson, Betty (Miss), U. of Florida, 1967

DeLand
James, Craig T., Stetson Univ., 1967
Julian, Ned N., Jr., Stetson Univ., 1967
Powell, James Cleveland, Mercer Univ., 6/67
Ray, Terrence Hulen, Stetson Univ., 1967

Ft. Lauderdale
Christy, Carl W., U. of Miami, 2/57
Conrad, Richard F., Stetson Univ., 1967
Darby, Carl Allan, U. of Florida, 1967
Erickson, Alf Leif, U. of California at Berkeley, 6/64
Lampkin, Benjamin F., Jr., Fla. A. & M. U., 4/64
Mueller, Paul C., Harvard U., 6/64

Ft. Myers
Johnston, James Covington, Stetson Univ., 1967
Pack, R. Wallace, Southern Methodist U., 6/53

Ft. Pierce
Horowitz, George, Brooklyn Law School, 6/34

Gainesville
Adler, George J., U. of Florida, 1967
Alford, Charles Wayne, U. of Florida, 1967
Berry, Roger Lewis, U. of Florida, 1967
Black, Susan Harrell (Mrs.), U. of Florida, 1967
Blank, Henry S., U. of Florida, 1967
Block, Karl B., Jr., U. of Florida, 1967
Brennan, Joseph Brian, U. of Florida, 1967
Burford, Thomas A., U. of Florida, 1967
Carter, James Nolan, U. of Florida, 1967
Caruso, Joe Teague, U. of Florida, 1967
Catalano, Frederick J., U. of Florida, 1967
Conner, James Clary, Jr., U. of Florida, 1967
Conner, William Borden, U. of Florida, 4/67
Cory, Charles F., U. of Florida, 1967
Curran, Timothy A., U. of Florida, 1967
Davidson, Barry R., U. of Florida, 1967
Davis, James Nelson, U. of Florida, 1967
DeVault, John Andrew, III, U. of Florida, 1967
Dunn, Edgar M., Jr., U. of Florida, 1967
DuRocher, Joseph William, U. of Florida, 1967
Dusek, Ronald Edward, U. of Florida, 1967
Evans, Donald Charles, Jr., U. of Florida, 1967
Ewing, David Lewis, U. of Florida, 1967
Farnell, Crockett, U. of Florida, 1967
Felder, Charles Gerald, U. of Florida, 1967
Fine, Gerald Elliott, U. of Forida, 1967
Gardner, James Andrew, U. of Florida, 4/67
Geiger, Allan Thomas, U. of Florida, 1967
Goddard, William David, U. of Florida, 1967
Hancock, Jonathan Howard, U. of Florida, 1967
Haviser, Jay Bryant, U. of Florida, 1967
Hodge, Ross Allan, U. of Florida, 1967
Ireland, Leonard E., Jr., U. of Florida, 1967
Kemp, E. David, U. of Florida, 1967
King, John Howard, U. of Florida, 1967
Kwall, Louis, U. of Florida, 1967
Lewallen, Stephen Buell, U. of Florida, 1967
Mackinnon, Alexander Craig, U. of Florida, 1967
Magaha, James Carl, U. of Florida, 1967

McKay, Thomas Joseph, U. of Florida, 1967
Mayo, Clifford, Jr., U. of Florida, 1967
McGillicuddy, Michael, U. of Florida 1967
McKinnon, Charles R., U. of Florida, 1967
Moore, Robert M., U. of Florida, 1967
Morrison, Robert William, U. of Florida, 1967
Murray, James David, U. of Florida, 1967
Panico, James Peter, U. of Florida, 1967
Raattama, Henry Howard, Jr., U. of Florida, 1967
Ries, Albert F., U. of Florida, 1967
Rockwell, Raymond Martin, U. of Florida, 1967
Sayles, Eric Howell, U. of Florida, 1967
Scaife, William Oliver, Jr., U. of Florida, 1967
Schwartz, Jeanne Dawes (Mrs.), U. of Florida, 4/67
Sears, Hubert I. Jr., U. of Florida, 1967
Shuey, Eugene Earl, U. of Florida, 1967
Simons, Gary Calvert, U. of Florida, 4/67
Sinoff, Barry Steven, U. of Florida, 1967
Somers, Clifford L., U. of Florida 1967
Stadelman, H. James, U. of Florida, 1967
Starling, Bruce Cordell, U. of Florida, 1967
Tanner, John W., Jr., U. of Florida, 1967
Terry, Clay Alan, U. of Florida, 1967
Ullensvang, Larry Gene, U. of Florida, 1967
Van Delinder, Charles James, U. of Florida, 1967
Welch, Thomas Ruffin, U. of Florida, 1967
West, David Alan, U. of Florida, 1967
White, Jon Duane, U. of Florida, 1967
Willis, Virlyn Benson, Jr., U. of Florida, 1967
Wolf, John Herbert, U. of Florida, 1967
Woodroffe, James H. B. III, U. of Florida, 1967

Grand Island
Aulls, Morton Drew, Stetson Univ., 1967

Gulfport
Bodiford, Larry Ashmore, Stetson Univ., 1967
Lavalle, Lawrence L., Stetson Univ., 1967
Taylor, Barbara T. (Mrs.), Stetson Univ., 1967
Taylor, William T., Stetson Univ., 1967
Terrell, James Thomas, Stetson Univ., 1967
Tison, Claude Hines, Jr., Stetson Univ., 1967
Tyner, E. David., Stetson Univ., 1967
Willis, Gary W., Stetson Univ., 1967
Wilson, Craig Rowe, Stetson Univ., 1967

Hallandale
Soper, Horace Adams, II, U. of Florida, 4/67

Havana
Munroe, William Bradley, Jr., U. of Florida, 4/67

Hialeah
Cyril, Ronald Alexander, U. of Miami, 6/67
Thornton, Leonard H., Geo. Wash. Univ., 10/59

Hollywood
Lafferty, John Peter III, Stetson Univ., 1/59
Wentworth, Clifford Brown, U. of Florida, 1967

West Hollywood
Feegel, John Richard, U. of Denver, 12/64

Jacksonville
Broome, Julian Finley, Jr., U. of Florida, 1967
Chandler, John Brandon, Jr., Vanderbilt U., 5/64
Coudon, Joseph, VII, U. of Florida, 1967
Denney, Earl Lauder, Jr., U. of Mississippi, 1967
Duss, John Stratford IV, U. of Florida, 1967
Finegold, Julius, U. of Michigan, 9/50
Isaac, Fred Cromwell, Mercer Univ., 1967
Keefe, Kenneth Maurice, Jr., U. of Virginia, 6/67
Kent, Robert Cunningham, U. of Florida, 1967
McCranie, Daniel I., U. of Florida, 1967
Merwin, William Richard, U. of Florida, 4/67
Platt, R. James, Jr., U. of Florida, 4/67
Rosborough, Brian Alexander, U. of Florida, 1967
Rosenberg, Jon Sablow, U. of Florida, 1967
Sadler, Luther Fuller, Jr., Yale Univ., 1967
Stivers, Susan (Miss), U. of Tennessee, 6/66

Kissimmee
Miller, Jeffords Donalson, Sr., Cumberland Law School, 5/67

Lake Jem
Berteau, John Thomas, Duke Univ., 1967

Lakeland
Marks, Robert Osman, U. of Florida, 1967
McCarthy, James Michael, U. of Florida, 1967

Lantana
Butterly, Yvette Henrietta Sirot (Mrs.), St. John's U., 6/45

Leesburg
Blount, David Eames, U. of Florida, 1967

Lutz
Herms, Gerald Rudolph, Stetson Univ., 1967

Madeira Beach
Martin, Cecil C., Stetson Univ., 1967

Melbourne
Dunlap, Charles Leonard, Mercer Univ., 1967
LaCapra, John Robert, U. of Florida, 1967

Miami
Acosta, Juan E., U. of Miami, 6/67
Andrews, William Robert, U. of Miami, 6/67
Ashe, Paul Richard, U. of Miami, 6/67
Blumenfeld, Jack Ross, U. of Miami, 6/67
Bruni, Guy Robert, U. of Miami, 6/67
Buchbinder, Mark, Columbia, Univ., 1967
Canner, Gary Frederic, U. of Miami 6/67
Carney, Thomas Maurice, U. of Miami, 6/67
Carter, Dennis Ivor, U. of Miami, 1/62
David, Theodore Z., U. Of Miami, 6/67
Dowling, Richard O'Neil, U. of Miami 6/67
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Ellis, Jerold Robert, U. of Miami, 6/65
Evans, Mark Alan, U. of Miami, 6/67
Faye, Laurence Derrick Jeffrey, U. of Miami, 1/67
Fazio, D. Fredrico, U. of Miami, 6/67
Fenniman, John H., New York Law School, 9/65
Fine, Jeffrey Michael, U. of Miami, 6/67
Fish, Lawrence Roy, U. of Chicago, 1967
Frieder, William A., U. of Miami, 6/67
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Glist. Rav, U. of Miami, 6/67
Goldfarb, Bernard P., Drake Univ., 8/61
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Levine, Edward S., Syracuse Univ., 1967
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Rossi, John Salvatore, U. of Miami, 1967
Rothenberg, Arthur L., U. of Miami, 1967
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Winewica, Albert J., U. of Miami, 6/55
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Miami Beach
Brodie, Ronald, U. of Miami, 6/67
Cohen, James, U. of Michigan, 6/34
Dennis, Mary Louise (Mrs.), U. of Miami 6/67
Douglas, Donald Alexander, American University, 1967
Epstein, Edward B., U. of Miami, 6/67
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Friedman, Kidders Harris, Boston Col. Law Center, 1967
Green, Lester L., U. of Florida, 12/66
Hauser, Robert Stuart, U. of Miami, 6/67

Hessen, Arnold D., U. of Miami, 6/67
Rapee, Bruce Elliott, U. of Miami, 6/67
Richard, Barry Scott, U. of Miami, 6/67
Taran, Barry L., U. of Miami, 6/67
Tarre, Michael S., U. of Miami, 6/67
Williams, Douglas Leifert, U. of Miami, 6/67
Zemlock, Albert J., New York Law School, 6/51

Miami Springs
Butts, Bernard H., Jr., U. of Miami, 6/67
Evans, Ollie L., Jr., U. of Miami, 6/65

North Miami
Devins, Arthur Sylvester, St. John's Univ., 6/36
Molans, James Anthony, U. of Miami, 6/67
Sterling, Herbert Peter, U. of Florida, 1967

North Miami Beach
Aurelius, John Edward, U. of Miami, 6/67
Bakerman, Robert, U. of Miami, 6/67
Satz, Michael Joseph, U. of Miami, 6/67
Schwartz, Martin James, U. of Florida, 1967

South Miami
Berg, Martin David, Columbia Law School, 1967
Henderson, James Michael, U. of Miami, 6/67

West Miami
Birnesser, Gerald H., U. of Miami, 6/67

Milton
Lindsay, Allen Weldon, Jr., Cumberland School of Law, 1967
Reese, Ira Franklin, National University, 3/42

North Bay Village
Kumble, David S., Brooklyn Law School, 6/24
Lipsitz, Marc, U. of Miami, 6/67

Orlando
Haddad, William Alfred, U. of Florida, 1967
Hamilton, Robert Lowery, Stetson Univ., 1967
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Ormond Beach
Furbee, Walter S., U. of Denver, 6/52
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Palm Beach
Holmes, Jay Herbert, Stetson Univ., 1967
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West Palm Beach
Cook, William Hamilton, Jr., Yale Law School, 1967

Palmetto
Harllee, John P. III, U. of Florida, 1967

Panama City
Stewart, Russell Robert, U. of Florida, 4/67

Pensacola
Grimsley, James Wilson, Mercer Univ., 6/66
Liberis, Charles S., Jr., Stetson Univ., 1/67
Swearingen, James Dunwoody, U. of Florida, 1967

Pompano Beach
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St. Petersburg
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Macpherson, Gilbert Pendleton, Stetson Univ., 1967
Mansfield, James P., Stetson Univ., 1/56
Middleton, Harlow Chester, Stetson Univ., 1967
Miller, George Ralph, Stetson Univ., 1967
Miller, Julian Lee, Stetson Univ., 6/67
Morris, Shirley York (Mrs.), Stetson Univ., 8/67
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Rentz, William Carl II, Stetson Univ., 1967
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St. Petersburg Beach
Payne, Ronald Bruce, Stetson Univ., 1967

Sarasota
Saba, William Atkinson, Stetson Univ., 1967
Wolff, Phillip Alan, Stetson Univ., 1967

Surfside
Manas, Richard I., U. of Miami, 6/67

Tallahassee
Ervin, Benjamin Harris, U. of Miami, 2/56
Hamrick, Henry Pope, Jr., Mercer Univ., 1967
Johnson, George W. III, U. of Florida, 4/67
Lewin, William II, Fla. A. & M. U., 1967
Maxwell, Earl LaVerne, Jr., U. of Florida, 1967
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Spriggs, Peter Kent, New York Univ., 6/65
Tracy, Ronald Charles, U. of Florida, 1967
Yon, James Robert, Vanderbilt Univ., 1967

Tampa
Ayala W. DeHart, Jr., U. of Florida, 1967
Bertoch, Carl A., Ohio State Univ., 6/56
Bokor, Richard Alan, U. of Florida, 1967
Brod, Sherman Martin, U. of Florida, 1967
Conine, Kashous Eli, Mercer Univ., 6/50
Darlson, John Andreas, U. of Forida, 1967
Ferlita, Frank Joseph, Loyola Univ., 1967
Hankal, John Edwin, Stetson Univ., 6/67
McLendon, Robert B., Baylor Univ., 5/61
Moffitt, Huston Lee, Cumberland School of Law, 1967
Stein, Richard Nathan, U. of Michigan, 1967

Terra Ceia
Haben, Ralph Harris, Jr., Cumberland Col. of Law, 5/67

Titusville
Clark, Blair W., Columbia Univ., 1967

Tyndall Air Force Base
Olmstead, Leon Franklin, U. of Oregon, 5/42

Vero Beach
Young, Anthony Thomas, U. of Florida, 1967

Winter Haven
Salzman, Barry Mark, Stetson Univ., 1967
Trakas, Andrew Peter, Stetson Univ., 1967

Winter Park
Green, Robert S., U. of North Carolina, 1967
Sims, Ronald L., U. of Florida, 1967

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ALABAMA

Birmingham
Alldredge, Melvin Clarence, Cumberland Law School, 5/67
Buttner, Frederic A., Cumberland Law School, 1967
Glenn, Joseph Edward, Cumberland Law School, 1967
Haney, William P., Jr., Cumberland Law School, 1967
Hawkins, William Burgin, Birmingham School of Law, 6/36
Hurt, Charles C., Cumberland School of Law, 5/67
Kleinfeld, Lawrence Sierkese, Cumberland Law School, 5/67
McNeil, James Hoyt, Cumberland Law School, 5/67

Montgomery
Turner, Walter Sanderson, U. of Alabama, 8/64

Tuscaloosa
Alhadeff, Elliott Richard, U. of Alabama, 1967

ARIZONA

Phoenix
Warford, Norman D., U. of Miami, 2/53

CALIFORNIA

San Francisco
Hartman, John Edward, Columbia Univ., 6/66

CONNECTICUT

Bradford
Totman, David T., Yale Law School, 6/65

Waterbury
Albino, Robert Carmine, U. of Miami, 6/66

DISTRICT OF COLUMBIA

Washington
Durham, Harvey M., Howard Univ., 1967
Edgecomb, George Ervin, Howard Univ., 1967
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GEORGIA

Acworth
Armstrong, Russell Francis, Mercer Univ., 6/65
Atlanta
Price, George Gerald, U. of Florida, 8/66
St. John, David, Emory Univ., 1967
Trapnell, John Raymond Turner, Emory Univ., 8/65
Austell
Manton, John Paul, Mercer Univ., 1967
Macon
Haggard, William Andrew, Mercer Univ., 1967
Mayne, William Perraton II, Mercer Univ., 1967
Olds, Warner Smith, Mercer Univ., 1967
Shearer, William B., Jr., Mercer Univ., 1967
Wren, Benjamin Franklin III, Mercer U., 1967
Milledgeville
McGee, William Farris, Mercer Univ., 1967
Savannah
Lewis, W. Reeves, Jr., Mercer Univ., 6/66
Shoob, Jerome P., Mercer Univ., 1967

ILLINOIS

Chicago
Gilbert, George J., U. of Florida, 1967
Lindmark, James Arthur, Northwestern U., 1/63
Mallon, Michael T., Loyola Univ., 6/66
Minkus, Carl, John Marshall Law School, 6/60
Stoll, Stephen W., Loyola Univ., 1967
Waller, Edward M., Jr., U. of Chicago, 1967
Zisook, Sheldon Oliver, John Marshall Law School, 1967
Lincolnwood
Grommes, Jean M. (Miss), Chicago-Kent Col. of Law, 6/66
Slattery, Helen Marie (Miss), DePaul Univ., 6/66
Mattoon
Notman, Robert G., U. of Illinois, 6/62

INDIANA

Columbus
Goltra, Allen Eugene, Indiana Univ., 6/50
Cline, Leon D., Indiana Univ., 9/49

LOUISIANA

Metairie
Barkley Robert Edward, Jr., Notre Dame U., 1967
New Orleans
Van Voorhees, Steven Coerten, Tulane Univ., 1967

MARYLAND

Bethesda
Weisberg, Michael Peter, Wash. Col. of Law, 1967
Kensington
Wearn, James McCartney, Geo. Wash. Univ., 1967
Oxon Hill
Kash, Lawrence Stout, George Wash. U., 1967
Pasadena
Partington, Donald Herbert, Wash. & Lee Univ., 6/64
Suitland
Haber, Richard Michael, Wash. Col. of Law of the American U., 1/67

MASSACHUSETTS

Cambridge
Rucker, Richmond Williston, Harvard Univ., 1967
Framingham
Brown, Richard Warren, Suffolk Law School, 1967
Plaut, Tanya R. (Mrs.), Suffolk Law School, 1967

MICHIGAN

Detroit
Wechsler, James M. Wayne State Univ., 6/66
Grosse Pointe Park
Howard, Robert Edmond, Detroit Col. of Law, 1967
Roseville
Ward, William B., U. of Detroit, 6/58

MINNESOTA

Minneapolis
Sommerville, Robert Cosgrove, Harvard Univ., 6/64

MISSISSIPPI

Oxford
Allen, Don Randall, U. of Miss., 1967
King, O'Gwen Lamar, U. of Miss., 1/67
University
Sykes, Charles Edward, U. of Miss., 1967
Warren, Gerald Martin, U. of Miss., 1967

MISSOURI

Columbia
Ford, James Michael, U. of Missouri, 1967

NEBRASKA

Lincoln
Owen, William Cone, U. of Nebraska, 1967
North Platte
Kelley, Donald Hayden, U. of Nebraska, 6/54

NEW JERSEY

Fair Lawn
Glazer, Donald Jack, Stetson Univ., 1967
Hackettstown
Sundheim, Frederick George, Rutgers Univ., 2/47
Orange
Malkin, Milton, Rutgers Univ., 6/50
Pompton Lake
Fabre, Frank R. S., Harvard Univ., 6/66
Trenton
Wherry, Edward John, Jr., U. of Florida, 1967

NEW YORK

Bayside
Weinstein, George, Cornell Univ., 6/57
Brooklyn
Ashmead, John Robert, New York Law School, 6/51
Nazzaro, Joseph Columbus, Brooklyn Law School, 6/50
Jamaica
Tifford, Arthur W., Brooklyn Law School, 1967
Ruffolo, Henry Philip, St. John's U., 1967
Larchmont
Winter, Philip L., Harvard Univ., 1967
Little Neck
Greenberg, David, Brooklyn Law School, 6/49
Long Island
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Lynbrook
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New York
Cox, Howard Ellis, Jr., Columbia Univ., 1967
Kellogg, Stephen, State U. of New York, 5/66
Syosset
Foster, Paul Marvel, New York Univ., 1967

NORTH CAROLINA

Cary
Barr, Billy Robert, U. of North Carolina, 1967
Chapel Hill
Pennell, Edwin Adam, U. of North Carolina at Chapel Hill, 1967
Durham
Genders, Curtis D., Duke Univ., 6/67
Lewis, John H., Duke Univ., 1967
Moran, Charles Anthony, Jr., Duke Univ., 1967
Pieper, Nathaniel George Whitnel, Duke Univ., 1967
Sherman, Roger Morgan, Duke Univ., 1967
Fayetteville
Rothman, Samuel Baird, U. of Miami, 6/64
Hillsborough
Bolch, Carl Edward, Jr., Duke Univ., 1967

OHIO

Akron
Bernardini, Paul, Ohio State Univ., 6/66
Bellefontaine
Saxton, Harold E., Ohio State Univ., 1967
Cincinnati
Biggart, Waddell Alexander, II, Salmon P. Chase Col. of Law, 1967
Brown, William J., Salmon P. Chase Col. of Law, 1967
Columbus
Dennis, Gerald S., Ohio State Univ., 6/59
Granville
Bayley, Francis, U. of Michigan, 8/66
Shaker Heights
Atkin, Sanford Irving, Western Reserve U., 9/66
Krupnick, Jon E., U. of Notre Dame, 6/65
Roderman, Barry Gilbert, Western Reserve U., 1967
Warrensville Heights
Tripp, Norman D., Cleveland-Marshall Law School, 1967

PENNSYLVANIA

Lake Ariel
Kochis, John L., Mercer Univ., 6/36
Philadelphia
Cassidy, Gerald S. Joseph, Cornell Univ., 1967
Pittsburgh
Bernstein, Joseph J., U. of Pittsburgh, 6/65

TENNESSEE

Memphis
Poltrock, Lawrence Albert, Chicago-Kent Col. of Law, 6/66
Nashville
Falbey, J. Wayne, Vanderbilt Univ., 1967

SOUTH CAROLINA

Columbia
Hiers, Laurie Danner, U. of South Carolina, 1967

VIRGINIA

Alexandria
Stephens, Albert Hugh, Geo. Wash. Univ., 1967
Williamson, Walter Bland, Jr., Emory Univ., 6/63
Arlington
Devaney, Neil Augustine, Georgetown Univ., 1967
Charlottesville
Curry, F. Hayden, U. of Virginia, 1967
Legler, Mitchell Wooten, U. of Virginia, 1967
Simpson, Nathan Philemon Bryan, U. of Virginia, 1967
Ft. Lee
Jeffries, John Michael, Indiana Univ., 6/65
Lexington
Smith, D. Culver, III, Wash. & Lee Univ., 6/67

WEST VIRGINIA

Morgantown
Thompson, William deForest, W. Virginia Univ., 5/67

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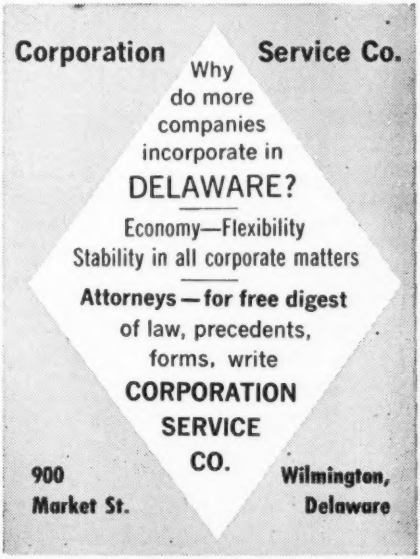

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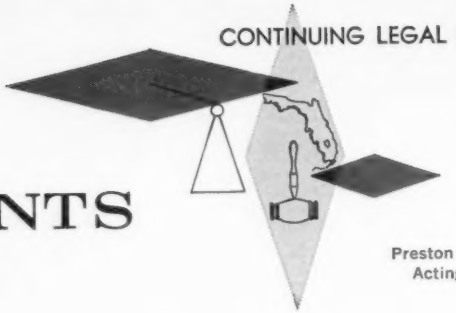

Preston W. DeMilly,
Acting Director

Future Courses

CLE will present two specialty courses this fall that should attract wide interest. The first, Basic Anatomy and Demonstrative Evidence, will be presented in the early fall and the second, Law Office Management, in the late fall. Specific dates and locations will be announced later and more details will be given as to the scope of the programs.

Next spring a new practice manual will be published and a series of oral presentations made on Estate Practice. In the fall of 1968 another practice manual is scheduled, along with an oral presentation, on Will Drafting and Estate Planning.

CLE presently is planning a course and practice manual for 1969 on the subject of Organizing and Advising the Small Business Client. Some consideration is being given to another 1969 course based upon a revision, consolidation and updating of two earlier CLE practice manuals – Florida Civil Practice Before Trial and Florida Civil Trial Practice.

Other specialty courses will be developed for the same period of time and will be announced as they are scheduled.

Florida Eminent Domain Practice and Procedure

The course materials for this 1966 specialty course have been depleted. CLE regrets that it no longer can comply with requests to purchase them.

The Florida Family Law Practice Manual

Many Florida attorneys remain unaware of the broad scope of Florida Family Law, the practice manual distributed at the recently concluded course on Family Law. Some have the idea that the manual, like the lectures on the course, is restricted to matters pertaining to divorce. This is not the case. Rather comprehensive coverage is given to several other areas of domestic relations.

Some of the subjects covered have had little treatment previously, at least from the standpoint of Florida law. Among these subjects are:

Adoption
Incompetency and Related Disability Proceedings
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Change of Name
Counseling the Troubled Family
Rights, Liabilities and Property of Adults
Custody and Support Unconnected With Divorce
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Paternity
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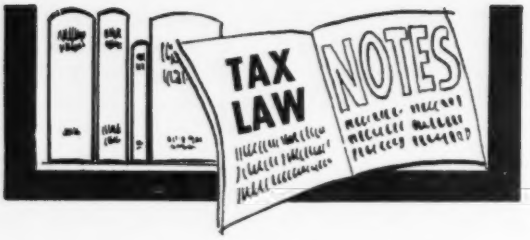

U. S. Supreme Court Holds That Lower State Court Determinations Of Property Rights Are Entitled Only To "Proper Regard" In Subsequent Federal Court Tax Litigation

Under Federal tax law, Congress enacts legislation to tax the receipts or transfer of property. However, local law determines property rights. Sometimes these functions conflict and the courts are confronted with the problem of determining whether federal or state determinations are controlling. An aspect of this problem arises when the parties to an action in which the government is not represented secure a state court decision on the precise issue facing the federal court in the tax case. The question therefore arises as to what weight shall be given to the state court's decision by the federal court. A divided United States Supreme Court, in an application of the rule of *Erie R. Co. v. Tompkins*,[1] held in the recent cases of *The Second National Bank of New Haven v. U. S.* and *Commissioner v. Bosch*[2] that the lower state court decisions are entitled only to "*proper regard*" by the federal court.

SCHWARTZ

Tax Law Notes are prepared by the Committee on Education and Information of the Tax Section, Byron L. Sparber, chairman; Benjamin S. Schwartz, editor.

In the case of *Commissioner v. Bosch*, the decedent, created an inter vivos trust under which his wife was given a life estate with a general power of appointment. Later, but prior to the death of the decedent, the wife attempted to partially release this power. If she had been successful, the estate would have lost the marital deduction, since at the time of the decedent's death she would not have had a general power of appointment. The state court upheld the estate's contention that the attempted release was ineffectual. However, the commissioner was not a party to the state court proceeding. A petition in the Tax Court had been filed prior to the state court proceeding, and the Tax Court abstained from making its decision pending the outcome of the state court action. Upon receiving the order of the state court, the Tax Court accepted its judgment as being an "authoritative exposition of New York law and adjudication of the property rights involved,"[3] and permitted the deduction. The Second Circuit held that even though the state court's decision was not adversary, it authoritatively established the parties' property rights and was binding on federal courts in the absence of collusion.[4]

[1] 304 U.S. 64 (1938).

[2] _____ U.S. _____ (1967), consolidated for opinion.

[3] 43 TC 120, 124 (1964).

[4] 363 F.2d 1009 (2nd Cir. 1966).

In *The Bank of New Haven* case the estate was admittedly entitled to a marital deduction; however, the question was how large a deduction. The decedent's will contained instructions on how the estate tax was to be apportioned among beneficiaries. A Connecticut statute said that in the absence of instructions in the will, death taxes were to be apportioned among the beneficiaries on the basis of their taxable share of the total taxable estate. However, the widow's portion was not itself taxable because of the marital deduction, and therefore was not part of the taxable estate. The Connecticut probate court held that the decedent's will did not negate the application of the state apportionment statute but that this statute applied and that all federal taxes were to be charged against assets which did not qualify for the marital deduction. This interpretation allowed the full marital deduction, unreduced by any part of the estate taxes. The commissioner however subsequently concluded that the ruling of the state court was erroneous, not binding on him and assessed a deficiency. The estate paid the amount of the deficiency and sued for a refund in the federal district court.

The district court[5] held that the "decrees of the Connecticut Probate Court . . . under no circumstances can be construed as binding and conclusive upon a federal court in construing and applying the federal revenue laws."

On appeal, the Second Circuit[6] held that the state court decree was not binding, since its decisions were not binding on higher state courts. It therefore upheld the Government's contention, and the marital deduction was reduced accordingly.

The U. S. Supreme Court held for the Government in both cases. It affirmed *The Bank of New Haven* and remanded *Bosch* for the circuit court to pass on the correctness of the resolution of a state law problem involved. The Supreme Court stated the issue involved in these two cases as follows:

> Whether a federal court or agency in a federal estate tax controversy is conclusively bound by a state trial court adjudication of property rights or characterization of property rights when the United States is not made a party to such proceeding.

The Court found that three positions had been taken by courts of appeal. One position was that the judgment is conclusive if the issue was fairly presented to the state court.[7] The second, opposite position, following *Erie R. Co. v. Tompkins*,[8] was that the federal court will consider itself bound by the state court decree only after independent examination of the state law as determined by the highest court of the state.[9] A third, intermediate position, and the one urged by the Government, was that a state trial court adjudication is binding in such cases only when the judgment is the result of an adversary proceeding in the state court.[10]

The Court disapproved the Government's "adversary" approach. It further said that since the Commissioner was not made a party to either of the proceedings, neither had the

[5]222 F. Supp. 446, 457 (1963).
[6]351 F.2d 489 (2d Cir. 1965).
[7]Gallagher v. Smith, 223 F.2d 218 (3rd Cir. 1955).
[8]See footnote 1.
[9]Falkerson's Estate v. U.S. 301 F.2d 231 (7th Cir. 1962).
[10]Pierpont v. Commissioner, 336 F.2d 277 (4th Cir. 1964).

effect of *res judicata,* nor did the principal of collateral estoppel apply. Furthermore, looking to the legislative history of the marital deduction statute, the Committee Reports said that *"proper regard,"* not finality, "should be given to interpretation of the will" by state courts and then only when entered by a court "in a bona fide adversary proceeding."[11] Furthermore, the Supreme Court had previously held that

> ". . . an intermediate appellate court . . . is a datum for ascertaining state law which is not to be disregarded by a federal court unless it is convinced by other persuasive data that the highest court of the state would decide otherwise."[12]

Thus, under some conditions, federal authority may not be bound even by an intermediate state appellate court ruling. It follows therefore that when the application of a federal statute is involved, the decision of a state trial court as to an underlying issue of state law should not *a fortiori* be controlling. This is but an application of the rule of *Erie R. Co. v. Tompkins,* where state law as announced by the highest court of the state is to be followed. If there is no decision by the state's highest court, then federal authority must apply what it finds to be the state law after giving "proper regard" to relevant rulings of other courts of the state. In this respect, it may be said to be, in effect, sitting as a state court.

Three justices dissented. Justice Harlan took the following position:

> In cases in which state-adjudicated property rights are contended to have federal tax consequences, federal courts must attribute conclusiveness to the judgment of a state court, of whatever level in the state procedural system, unless the litigation from which the judgment resulted does not bear the indicia of a genuinely adversary proceeding.

Justice Fortas agreed with Justice Harlan's dissent, adding thereto, however, that the factors listed by the Tax Court in the *Bosch* case[13] should be considered in determining whether or not there had been an "adversary" proceeding in the state court.

The third dissenter, Justice Douglas, stated that the federal court is obligated to follow the decision of the lower state court in the absence of decisions of the highest court of the state showing that the state law is other than that announced by the lower court. However, he added the following:

> A federal court might not be bound by a consent decree, for it does not purport to be a declaration of state law; it may be merely a judicial stamp placed upon the parties' contractual settlement. Nor need the federal court defer to a state court decree which has been obtained by fraud or collusion. But where, absent those considerations, a state court has reached a deliberate conclusion, where it has construed state law, the federal court should consider the decision to be an exposition of the controlling state law and give it effect as such.

[11]S. Rep. No. 1013, Pt. 2, 80th Cong., 2d Sess., p. 4.

[12]West v. A.T. & T., 311 U. S. 223 (1940).

[13]43 TC 120, 123-124.

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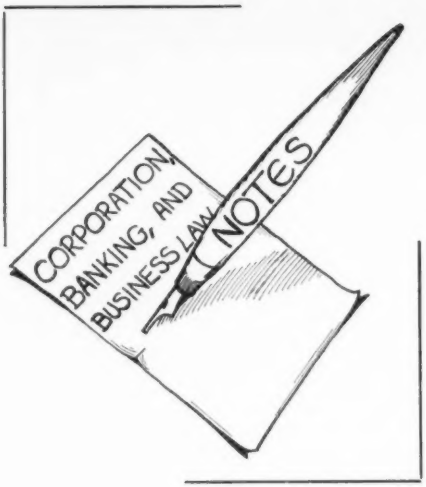

Professional Service Corporation — Execution on Stock

Appellants, who are not attorneys-at-law, sought to execute on stock owned by appellee attorneys in satisfaction of a judgment they had obtained against the attorney.

Appellees obtained a final decree enjoining the sheriff from executing on the stock and appellants brought this action raising the issue "whether stock owned by shareholders in a professional service corporation, Chapter 621, Florida Statutes 1965, is exempt from levy and sale under execution . . . by a non-professional judgment creditor."

ROSS

In reversing, the court held that the prohibition and restriction contained in Chapter 621 on the transfer of stock in a professional corporation is not reason to prevent an execution and sale by law, for a judgment creditor. The court noted that exempting the stock from levy and sale would afford professionals a shelter for their assets which was not the spirit of the act. Furthermore, the court said that the statute did not contain specific language creating the exemption and none should be created by judicial fiat.

The opinion refrains from ruling on the right of a non-professional in the stock if it came into his hands at the sale. *Sugerman et ux v. Street et al.*, Case No. 66-351, 3 D.C.A. Filed April 18, 1967.

Banking — Husband and Wife

A suit was instituted by wife against the collecting bank upon a check drawn to her and her husband and held as an estate by the entirety. The husband forged the wife's signature and deposited the check in his own account.

The trial court granted the defendant bank's motion for summary judgment. On appeal, the district court affirmed the trial court's decision. The district court's opinion was certified as one passing on a question of great public interest on whether *Bello v. United Trust Co.*, 267 F.2d 190 (5 Cir. 1959), correctly stated the law of Florida.

In reversing, the district court found that the existence of an estate by the entireties does not imply any agency in either spouse without the assent of the other to do any voluntary act which changes the character of the property, as converting a check to cash. The court concluded that absent actual authority for one spouse to endorse the check for the other, both signatures are required. *Glasser*

Editor's Note: This column is edited this month by Howard P. Ross, St. Petersburg, on behalf of the Corporation, Banking and Business Law Committee, Davisson F. Dunlap, Jacksonville, chairman.

v. Columbia Federal Savings and Loan Association, 197 So.2d 6 (Fla. 1967).

Business — Proprietor's Liability For Faulty Construction

Respondent food store contracted for an overhead balcony in the store. Petitioner's wife was killed when the balcony fell due to faulty construction. Petitioner joined the City of Miami Beach, alleging its building inspector was negligent in performing his duties. The trial court granted summary judgment for the city. The district court affirmed the ruling as to the city. 178 So.2d 596 (Fla. App. 1965); Florida Bar *Journal*, January, 1966.

A writ of certiorari was issued and in its opinion discharging the writ, the Supreme Court held that the function of inspection of construction is in effect enforcement of the building code, a task of the executive branch of government and not within the area of municipal tort immunity; but in the present circumstances in order to hold inspector liable, he must owe a duty to the injured person and not the public generally and absent the showing of such a duty, the city could not be liable under rule of respondent superior. *Modlin v. City of Miami Beach*, Case No. 34,865, Supreme Court, filed April 28, 1967.

Banks — Special Deposit

A business was indebted to appellant bank on three promissory notes, two of which were secured by chattel mortgages. The third note was unsecured.

One of the trucks belonging to the business was destroyed and thereafter repossessed by the plaintiff, a finance company, and sold for salvage. The insurance company for the party causing the destruction settled with the business.

Prior to the time the insurance check was deposited in the appellant bank, the business was sold and the new purchaser applied to the bank for refinancing which caused the bank to become concerned about its position.

The draft from the insurance company contained a note indicating the check was for collection and credit to the depositer. The bank knew that the proceeds were intended for the finance company and other creditors, but offset its obligation against the check and returned checks made payable to the finance company and the other creditors marked "not sufficient funds."

Lower court found finance company had an equitable lien on the draft to the extent of its claims. In affirming, the district court found that the deposit was a special not general deposit and if purpose for which general deposit cannot be accomplished, bank must return funds. The court found that the bank could offset its indebtedness only to the proceeds of the draft in excess of the sums required for the special deposit. *Bank of West Orange v. Associates Discount Corp.*, Case No. 355, Fourth District Court of Appeal, filed April 18, 1967.

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LABOR LAW REVIEW

Responsibilities of a Purchaser of a Business

The 1964 opinion of the Supreme Court in the *John Wiley* case[1] has provided a foundation for a substantial enlargement of the Taft-Hartley obligations of successor employers. The NLRB has found reasoning in the opinion for holding that the purchaser of a business may have both an obligation to honor the collective bargaining commitments of the seller, and a responsibility to remedy the seller's unfair labor practices.

MINTZ

In the *Wiley* case, the Supreme Court held that the obligation to arbitrate grievances under a collective bargaining contract survived both the expiration of the contract and the disappearance of the corporate employer by merger. The Court stated:

> Employees . . . ordinarily do not take part in negotiations leading to a change in corporate ownership. The negotiations will ordinarily not concern the well-being of the employees, whose advantage or disadvantage, potentially great, will inevitably be incidental to the main considerations. The objectives of national labor policy, reflected in established principles of federal law, require that the rightful prerogative of owners independently to rearrange their businesses and even eliminate them as employers be balanced by some protection to the employees from a sudden change in the employment relationship.

The Chemrock Case

The NLRB first had opportunity to apply the Wiley reasoning in the 1965 *Chemrock* case.[2] The case involved the sale of an insulation products business to a newly formed company. Although the new company did not agree to assume the predecessor's contract obligations, it continued to operate with the same management, the same employees, and the same trucks. At the time of the sale, the truck drivers were represented by the Teamsters Union, which had an existing collective bargaining contract with the predecessor company. The new company desired to deal with the drivers on an individual basis at pay rates below those set by the contract with the predecessor. The drivers replied that they still wanted to be represented by the union, and that they wanted their contract rights. They refused to go to work for the new employer at the lower wage rates; and the company therefore hired other drivers.

The Board stated that the term "employee" must be construed broadly under the Act, and that where the only substantial change wrought by

[1] John Wiley & Sons v. Livingston, U.S. Sup. Ct., 376 U.S. 543 (1964).

[2] Chemrock Corp., 151 NLRB #111 (1965).

Prepared for The Florida Bar by the Committee on Labor Relations, Paul A. Saad, Chairman; Herbert B. Mintz, Editor.

the sale of a business is the transfer of ownership, the individuals employed by the seller must be regarded as "employees" of the purchaser. Accordingly, the employer's conduct was violative of the statutory obligation to recognize and bargain with the union as the majority representative of its employees.

The Overnite Case

The Wiley-Chemrock doctrine was further extended by the Board in the *Overnite* case.[3] In *Overnite*, a purchaser took over a business after the expiration of a collective bargaining agreement, and continued the business with no significant change, except that he unilaterally altered the wages and other benefits established by the sellers' expired collective bargaining agreement. Upholding a decision by the NLRB, the U. S. Court of Appeals at Richmond ruled that the purchaser, under such circumstances, became a successor employer and, as such, was obligated to bargain with the union *before* changing the wages and benefits. It now can be considered settled, the court stated, that if the transfer of assets and employees from one employer to another leaves intact the identity of the *employing enterprise*, then the former's duty to recognize and bargain with an incumbent union devolves upon the latter as "successor employer." The court further ruled that the Board had authority to order the purchaser to restore the wages and benefits provided by the expired contract, and to make the employees whole for losses caused by the unilateral changes.

The Perma Vinyl Case

The most recent extension of the *Wiley* case is to be found in the recent Board decision in *Perma Vinyl Corp.*,[4] wherein the Board ruled that henceforth the purchaser will be required under certain circumstances to remedy the unfair labor practices of the seller. The Board's new doctrine is that: An employer who acquires and operates in basically unchanged form a business of an employer found guilty of unfair labor practices under cirmumstances that charge the purchaser with notice of the unfair labor practice charges against the seller will be jointly and severally liable with the seller for remedying the unfair labor practices.

Summation

Thus, it would appear from the above that in the purchase and sale transaction of a going concern, the purchaser is, in several respects, "in the shoes of" the seller in regard to collective bargaining obligations. Authoritative law would now bind the purchasers to arbitrate grievances which arose during the life of a prior collective bargaining contract. Authoritative precedent would require a purchaser to assume and continue the wages and other benefits of employment pending bargaining with the collective bargaining representative before there be any right to change such terms of employment; and this requirement would exist whether the takeover is during the life of a collective bargaining agreement or after its termination. Lastly, the purchaser had best concern himself with any potential liability arising from any unfair labor practices of the seller, and accordingly, enter into the purchase transaction or procure an indemnification against potential liability.

[3]Overnite Transportation Co. v. NLRB, 64 LRRM 2359, CA-4, 1967.

[4]65 LRRM 1168 (1967), overruling Symms Grocer Co., 34 LRRM 1326, (1954).

News and Notes

Lawyers' Title Guaranty Fund

(By the staff of Lawyers' Title Guaranty Fund)

Board of Trustees . . . Elections for Fund Trustees for the three-year terms commencing July 1, 1967, required by Section 13 of the Declaration of Trust, have been completed with the re-election of William H. Wolfe, O. B. McEwan, J. Ernest Collins and the election of Kenneth E. Cooksey, W. Henry Barber, Jr., and William A. Zeiher. The Board, for the one-year period beginning July 1, 1967, will be composed of the following:

CIRCUIT	TRUSTEE	CITY	TERM EXPIRES JUNE 30
1st	Richard H. Merritt	Pensacola	1969
2nd	Kenneth E. Cooksey	Monticello	1970
3rd	Ernest M. Page, Jr.	Madison	1968
4th	C. Donald MacLean, Jr.	Jacksonville	1969
5th	Charles A. Savage	Ocala	1969
6th	William H. Wolfe	Clearwater	1970
7th	Alfred E. Hawkins	Daytona Beach	1969
8th	W. Henry Barber, Jr.	Gainesville	1970
9th	O. B. McEwan Chairman, Executive Comm.	Orlando	1970
10th	Ed. R. Bentley	Lakeland	1969
11th	H. N. Boureau	Miami	1968
12th	Richard S. Sparrow	Sarasota	1968
13th	Donn Gregory	Tampa	1969
14th	J. Ernest Collins Chairman, Board of Trustees	Panama City	1970
15th	Harold G. Maass	Palm Beach	1968
16th	Robert F. Sauer	Key West	1968
17th	William A. Zeiher	Ft. Lauderdale	1970

Philadelphia Trip . . . Fund President Emeritus Hewen A. Lasseter recently completed a trip to the Philadelphia area where he attended the American Bar Association's Eastern Unauthorized Practice of Law Institute and made courtesy calls at the offices of various institutional lenders in the Philadelphia area who rely on mortgagee title insurance through Lawyers' Title Guaranty Fund in connection with their Florida mortgage loan investments.

Military Leave . . . Attorney G. Robert Arnold of The Fund's Legal Department was recently called to active military service in his Army Reserve unit. At this writing, the length of his tour of active duty is not certain. However, Bob is very much missed

ARNOLD

by the other staff attorneys who are attempting to carry the work load in his absence.

Broward Plant . . . The annual stockholders' meeting of Lawyers' Title Services, Inc., of Broward County was held on May 11 immediately followed by a meeting of the new Board of Directors. Roger H. Staley, Fund field attorney, was elected president of the bar-related title information plant serving Broward County. Grant E. Wenkstern was named vice president and Charles E. Paoli, Jr., secretary-treasurer. Raymond E. Trescot was re-elected to serve as manager and executive vice president.

Florida Law Reunion . . . Fund staff attorneys Robert B. Bratzel and Robert H. Threadgill represented The Fund at the recently held Law Reunion at the University of Florida College of Law at Gainesville.

Chicago Meeting . . . Fund staff members Hewen A. Lasseter and Edward I. Lack attended a July 8-9 meeting of the American Bar Association's Standing Committee on Membership held at the American Bar Center in Chicago. Lasseter is a member of the committee and is chairman-designate for 1967-68. Lack attended as co-chairman of the Membership Committee of the ABA Young Lawyers Section.

Pensacola Meeting . . . Fund Trustee Richard H. Merritt and Fund Area Field Representative Harry K. Holcomb were hosts at a meeting of Fund members and guest attorneys held in Pensacola on May 29. Holcomb spoke briefly informing the lawyers in attendance of current activities of The Fund and plans for the future.

Legislation of Interest . . . Conveyances . . . Name and Address of Person Preparing Must Appear on Face of Instrument . . . Chapter 67-53 . . . Effective date January 1, 1968 . . . The act prohibits recordation by the clerk of the circuit court of any county of an instrument conveying title to or creating a lien on real property unless the name and address of the person who prepared such instrument is printed, typewritten, or stamped on the face thereof in a legible manner. An instrument complies with the section if it contains a statement in substantially the following form:

This instrument was prepared by

(Name) .....,

(Address) .....

The act does not apply to any instrument executed before the effective date of the act; a decree, or judgment or writ of any court; a death certificate; and an instrument executed or acknowledged outside of the state.

New Members Since Last Report:

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Getelman, Michael J., Miami
Lawrence, Richard A., Jr., Melbourne
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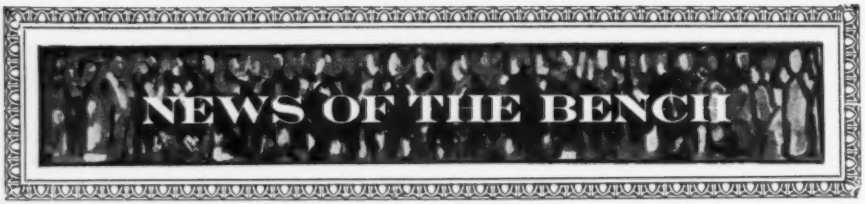

Ben Krentzman, Clearwater, was scheduled to take the oath as new judge for the United States District Court, Middle District of Florida, on June 29. Judge *Krentzman* was appointed by President *Johnson* to the judgeship open in Tampa as a result of the appointment of former U. S. District Court Judge *Bryan Simpson* to the 5th Circuit Court of Appeals in New Orleans.

President *Johnson* at the same time appointed Circuit Judge *Joe Eaton* of Miami to the U. S. District Court, Southern District of Florida. He was sworn into office on June 20 and fills the position formerly held by Judge *David W. Dyer.*

Herbert S. Shapiro recently took the oath as North Bay Village judge.

Warren A. Nelson of Jacksonville has been appointed by Governor *Kirk* to be judge of the Duval Criminal Court of Record. He fills the vacancy created by the resignation of Judge *Hans G. Tanzler, Jr.,* who gave up the position to campaign as mayor of Jacksonville.

For his achievements in the field of law, Judge *Dyer* was honored by Stetson University at commencement exercises Saturday, June 3. Judge *David W. Dyer* of Miami, U. S. Court of Appeals, Fifth Circuit, is the second Stetson graduate to occupy a seat on the United States Court of Appeals. *Fletcher G. Rush* of Orlando, immediate past president of The Florida Bar, received the Stetson Distinguished Service Award at the ceremonies.

Two Florida juvenile court judges were among 30 judges selected from throughout the nation to attend the 1967 Summer College for Juvenile Court Judges at the University of Colorado in Boulder, Colorado from July 10 through August 4. Judges *Gordon A. Duncan, Jr.,* of Duval County and *Robert A. Halvorsen* of Pinellas County have been awarded fellowships by the National Council of Juvenile Court Judges to attend the Summer College which is designed to afford intensive training in the judicial skills and knowledge essential to effective performance in juvenile hearings.

Announcement was made May 26 by Governor *Claude Kirk* of the appointment of *H. Clyde Hobby,* Dade City attorney, as small claims court judge in Pasco county. *Hobby* was named to serve the unexpired term of the late *A. J. Hayward, Jr.,* who resigned the judgeship a few weeks prior to his death.

The monthly meeting of the Palm Beach County Municipal Judge's Association, Inc., was held Wednesday evening, May 17, at Stouffer's Restaurant, West Palm Beach. The following officers were elected for the ensuing year: President, Judge *Robert E. Mathews, Jr.,* of Belle Glade; vice-president, Judge *Henry W. Jewett* of Tequesta; secretary, Judge Ad Litem *Daniel Bakst* of the town of Lake Clarke Shores; treasurer, Judge *Martin B. Durkin* of Boynton Beach. The following were elected to the Board of Directors: Judge Ad Litem, *Ed-*

Local Traffic Court Judges attended the Atlantic Regional Traffic Court Conference at the Fordham University Law School in New York City, June 12-16. The program of the American Bar Association and Northwestern University's Traffic Institute attracted 55 traffic court judges, prosecutors and other officials from 15 states who discussed new court procedures. Shown examining a state's progress chart are, l. to r., James P. Economos, director, ABA Traffic Court Program, Chicago; Judge Harry W. Fogle, serving municipal courts in Pinellas Park, Gulfport and S. Pasadena; and Gilman M. Hammond, city attorney, Treasure Island.

ward A. Gross of Lake Park; Judge *Richard C. Sorgini* of Ocean Ridge; Judge Ad Litem *Garlon A. Davis* of North Palm Beach; Judge *Ira Bullock* of Lake Worth and Judge *James F. Simpson* of Lake Clarke Shores.

New officers of the Broward County Municipal Judges Association are as follows: *Archibal M. Black*, Dania, president; *Edward B. Deutsch*, Fort Lauderdale, vice president; *Nels R. Pearson*, Fort Lauderdale, secretary; and *Benjamin V. Haywood*, Pompano Beach, treasurer.

Judge *Woodie Liles* of Plant City was appointed a member of the Judicial Administrative Commission for a two-year term beginning July 1. The appointment was made by Judge *John T. Wigginton*, chairman of the conference of judges of the District Courts of Appeal.

Former Judge *Orie L. Phillips* of Naples recently received an award from the American Bar Association marking his 50 years membership in the association.

LAWYERS who signed up at the Convention Exhibit of Ace Corporate Seal & Stamp Company in Miami Beach to receive a complimentary personalized memo pad are requested to write the company at the address below. The original list was misplaced and the company is anxious to fulfill the offer. Write: Ace Corporate Seal & Stamp Company, 120 N.E. 1st Street, Miami, Fla.

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The Florida Municipal Judges Association sponsored its 11th Annual Traffic Court Conference in cooperation with the Office of Continuing Education, Florida State University, May 26-27 in St. Petersburg Beach. Host Judge John A. Rhoades welcomes Judge Thomas H. Barkdull, Jr., Third District Court of Appeal, Mayor William Coletti, St. Petersburg Beach, and George Nachwalter, president of the Association.

These judges of Florida municipalities and law enforcement officials heard lectures on improving the handling of cases in traffic courts.

Workshop sessions such as this one reviewed the information presented in lectures and formulated specific recommendations for better court procedure.

Officers of the Association, who spearheaded the sessions, are Judge Walter B. Lebowitz, secretary; Judge George Nachwalter, president; and Judge Raymond Simpson, vice president.

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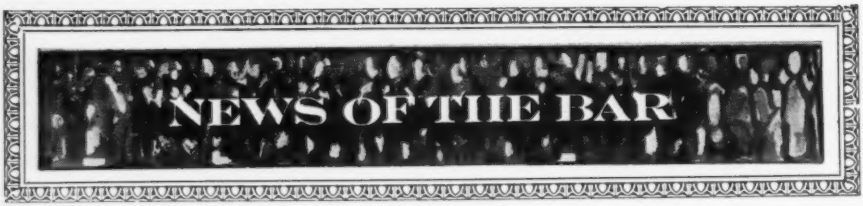

LOCAL BAR ASSOCIATIONS

Herbert Tannenbaum is the new president of the North Dade Bar Association. Other officers elected for the coming year are: *Aaron Podhurst*, president-elect; *Norman H. Goldstein*, vice-president; *Bruce Schwartz*, secretary; *John Manning*, treasurer. New directors are *Ronald M. Eefting*, *Curtiss Hamilton*, Judge *John Harkness*, *Lawrence B. Friedman*, *Burton Loebl*, *Maurice Rosen*, Judge *Arthur I. Snyder* and *Carl Edwin Lipton*.

At a luncheon meeting June 12, *Alfred Hopkins*, state legal counsel for the union, described the role of the American Civil Liberties Union in Florida to the Palm Beach County Bar Association.

Dean *Frank E. Maloney* of the University of Florida Law School discussed the university's new law center program at the Volusia County Bar Association's regular meeting on June 15.

Elected during the annual convention of The Florida Bar in Miami Beach in June were the new officers of the Florida Council of Bar Association Presidents. *Lee Jay Colling*, Orlando, is chairman; *Phyllis Shampanier*, Coral Gables, secretary-treasurer; and *George Baker Thomson*, Coral Gables, chairman-elect. Directors include *Charles B. P. Sellar*, Leesburg, and *Robert M. Cargill*, St. Petersburg.

W. Warren Cole, Jr., was elected president of the Volusia County Bar Association on May 11, succeeding *James R. Wilson*. Other officers elected were: President-elect, *William M. Gillespie*, of New Smyrna Beach; vice-president, *Ralph J. Barry, Jr.*, Ormond Beach; *William C. Johnson, Jr.*, Daytona Beach; *Bruce E. Clary*, DeLand; member of the executive committee, *Charles Tindell*, Ormond Beach.

Lewis H. Cohen, assistant vice-president and assistant trust officer of the Hollywood Bank and Trust Company, spoke May 18 to the South Broward Bar Association. His topic was "How to Get Your Estate Tax Return Accepted as Filed."

St. Petersburg and Clearwater bar associations plan to coordinate efforts in Pinellas County to represent indigent defendants not covered by the Public Defender's office.

New officers of the Sarasota County Bar Association assumed new duties May 1. They are as follows: *James W. Cullis*, president; *William T. Harrison, Jr.*, president-elect; *V. Morris Smith, Jr.*, vice-president; *Eugene B. Cawood*, treasurer; and Directors are *T. LaMar Hazen, Jr.*, and *Donald C. McClelland, Jr.*

Thomas E. Meyers was elected president of the Junior Bar Association of Tampa and Hillsborough County. The Junior Bar also elected *Charles H. Scruggs III*, vice president; *Bob Anderson Mitcham*, secretary; *Gerald H. Bee*, treasurer; *John Bert Grandoff, Jr.*, sergeant-at-arms; and *Leonard H. Gilbert*, *Gerry R. Gordon* and *Stephen Jay Ross*, directors.

New officers of the South Broward Bar Association are *Nicholas J. DeTardo*, president; *W. Tinsley Ellis*, vice-president; *Ross P. Beckerman*, treasurer; and *Reuben M. Schneider*, secretary. The new directors are *Myron H. Burnstein, Sanford L. Muchnick, Morton J. Perlin, James M. Reasbeck, Charles E. Paoli* and *Lawrence J. Meyer.*

Judge *James H. Walden*, chief judge, District Court of Appeal, installed new officers and directors of the North Broward Bar Association at an annual banquet May 5. Inducted were *Patrick L. Bailey*, president; *Albert E. Fletcher, Jr.*, vice president; *Richard H. Roth*, secretary; *George A. Paterson*, treasurer, and the following directors: *Robert T. Carlile, Benjamin V. Haywood, Delford P. Richey, Alfred J. Skaf* and *Shelby D. Wallis.*

At the annual election of the Broward County Bar Association the following were elected as officers effective June 1: *Russell B. Clarke*, president; *Joseph A. Huber*, president-elect; *George L. Pallotto*, secretary; and *Nicholas J. DeTardo*, treasurer.

Michael Thompson, state director of the Citizens Awareness Program, an information and crime-prevention division of the Governor's War on Crime, was featured speaker at the monthly meeting of the Orange County Bar Association on May 18.

On May 12 the Bar Association of the Eighth Judicial Circuit of Florida installed *William Henry Barber, Jr.*, as president, and *William D. Reynolds* as president-elect. The following were elected to the board of directors: *William N. Long, Henry L. Gray, Jr., David M. Anderson, George H. Pierce* and *Eugene T. Whitworth.*

HALL

The 1,500 member Dade County Bar Association on Thursday, June 1, elected *M. Lewis Hall, Jr.*, of Coral Gables, president for the coming year. He succeeds Judge *Robert L. Floyd.* Besides *Hall*, other officers named by the association were: *Joseph A. Gassen*, first vice-president and president-elect; *James L. Armstrong III*, second vice-president; *Phillip Goldman*, third vice-president; *Lyle D. Holcomb, Jr.*, secretary; and *Preston L. Prevatt*, treasurer. Eight directors elected to the Board include: *Richard H. Hunt, Jr., Henry L. Oppenborn, Jr., Harold P. Barkas, Robert A. White, Irwin J. Block,*

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Frank A. Howard, Jr., W. L. Gray, Jr., and *Idus Q. Wicker.*

At an election recently held by the Spanish-American Bar Association of Florida, the following officers were installed: President, *Juan I. Carreras;* secretary, *William M. Porter;* treasurer, *Albert P. Rosillo.*

Sen. *Eugen Dupuch,* president of the Bahamian Bar Association, was the guest speaker at the Palm Beach County Junior Bar Association June 2. Sen. *Dupuch,* who is a member of the Queen's Council and a Commodore in the Order of the British Empire, spoke about the British legal system.

William M. Manker, newly-elected president of the South Florida Chapter, Federal Bar Association, was installed May 27 at a banquet at the Galen Beach Hotel, Key Biscayne. Other officers elected for 1967-68, who were installed at the same time, included: *Arthur L. Miller,* first vice president; *James H. White,* second vice president; *Victor Levine,* third vice president; *Fred Doerner, Jr.,* fourth vice president; *Louis K. Lesperance,* secretary; and *Paul A. Tennenbaum,* treasurer.

Raymond A. Goodwill, Jr., formerly of the firm of Summerlin and Connor, and *Thomas W. Garrard* announce the formation of a partnership for the practice of law under the firm name of Goodwill and Garrard with offices at Suite 15, Drawn Building, 141 West Central Avenue, Winter Haven.

S. Gunter Toney, Robert Rose, formerly with Allstate Insurance Company, and *Peter Guarisco,* formerly assistant general counsel for the State Treasurer and Insurance Commissioner and executive director of the Florida Association of Insurance Companies, announce the formation of a partnership for the general practice of law under the firm name of Toney, Rose and Guarisco. Offices are located at 200 East College Avenue, Tallahassee.

The firm of Harrell, Caro, Middlebrooks & Wiltshire announces that *William H. Clark* has become a partner and that the firm will continue in the general practice of law under the name of Harrell, Caro, Middlebrooks & Wiltshire. The firm is located at 201 East Government Street, Pensacola.

Harry E. King and *Clifton L. Howell, Jr.,* announce the association of *John D. Kaylor* in the firm of King and Howell and the removal of their offices to 700 Sixth Street, N.W., Winter Haven.

Virginia Searcy Barr, who has had law offices in the Comar Building in Ft. Walton Beach, has joined the law firm of Stewart and Anchors, formed by *Charles D. Stewart, Sr.,* and *C. LeDon Anchors.* The new firm will be

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known as Stewart, Barr and Anchors, with offices at 40 Beal Street in Ft. Walton Beach.

Lindsey Grant Peeples and *Lewis Ralph Smith, Jr.*, formed a partnership for the general practice of law at 606 Midyette-Moor Building, Tallahassee, on April 1.

Warren M. Cason, Wilhelmina Hawkins, John W. McWhirter, Jr., and *Thomas E. Henderson* announce the formation of a partnership under the firm name of Cason, Hawkins, McWhirter and Henderson and the removal of their offices from 601 Twiggs Street to the Exchange National Bank Building in Tampa.

Stephen A. Rappenecker has joined the law firm of Lazonby, Dell, Graham, Wilcox and Barber as an associate. He is a 1966 graduate of the University of Florida College of Law and a member of the Eighth Judicial Circuit Bar Association.

J. Donald Bruce and *Lindner Smith, Jr.*, of Bruce and Smith, and *George L. Proctor* announce the formation of a partnership for the general practice of law under the firm name of Bruce, Smith and Proctor. Offices are at 609 Barnett First National Bank Building, Jacksonville.

Effective April 17, *Wirt Peters, Tom Maxey, Robert Alan Shupack, Eugene M. Short, Jr.*, and *Charles Morgan* announce the formation of a partnership with offices in Coral Gables and North Miami.

Robert L. McDonald and *Albert M. Salem, Jr.*, formed a partnership known as McDonald and Salem with offices at 4401 W. Kennedy Boulevard, Tampa, on May 1.

Bill Wagner, Tony Cunningham and *Roger Vaughan* announce the formation of a partnership for the practice of law under the firm name of Wagner, Cunningham & Vaughan. Offices are at 412 Pierce Street in Tampa.

Henry P. Duffett, Ralph J. Barry, Jr., and *Donald J. Seps* have formed a partnership under the firm name of Duffett, Barry and Seps, and their offices are located at 120 East Granada Avenue, Ormond Beach Federal Building, Ormond Beach.

Walter W. Woolfolk, C. B. Myers, Clinton A. Curtis and *Roy A. Craig, Jr.*, announce that *Robert L. Gibson* has become a partner in the firm and the firm will be known as Woolfolk, Myers, Curtis, Craig and Gibson with offices in Lake Wales.

Walter O. Bazemore and *Douglas M. Midgley* announce the formation of a partnership for the general practice of law under the firm name of Bazemore & Midgley. Their offices are located at 2043 McGregor Building, Ft. Myers.

George P. Telepas, formerly associated with the firm of Preddy, Haddad & Kutner, of Miami, has joined the firm of Williams & Jabara, with offices at Professional Arts Center, 1150 N.W. 14th Street, Miami.

After taking the bar examination in August *E. David Tyner* will become associated in the practice of law with the firm of Barnes and Sumner in Dade City.

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Walter W. Woolfolk, C. B. Myers, Clinton A. Curtis and *Roy A. Craig, Jr.*, announce that *Robin Gibson* has become a partner in the law firm which will now be known as Woolfolk, Myers, Curtis, Craig and Gibson. Offices are located in Lake Wales.

Mayor *Jay Dermer, Harold Rosen* and *Leonard Rivkind* have formed a new law firm to be known as Dermer, Rosen and Rivkind, and will open offices at 420 Lincoln Road, Miami Beach, effective July 1.

Charles F. Robinson, recently admitted to The Florida Bar, is now associated with the law offices of *Robert W. Wilson* in the Landmark Building at 401 S. Lincoln Avenue, Clearwater.

W. E. "Bucky" Bishop, Jr., formerly of Lake City, has resigned as assistant attorney general of Florida to return to the city to engage in the practice of law. *Bishop* will be associated with the firm of Brannon, Brown, Norris, Vocelle and Haley.

Robert F. Nunez, St. Petersburg, announces that *Stephen Marc Slepin* has become an associate of his firm. *Slepin* was formerly a member of the University of Miami faculty and a fellow of the Mass Communications Institute, University of Wisconsin.

The law firm of Carey, Dwyer, Austin, Cole & Selwood, Suite 650 Seybold Building, Miami, has employed as associates *Jesse W. Miller* and *Harry A. Payton*.

Frederick H. Kent, Frederick H. Kent, Jr., and *John Bradford Kent* announce the termination of their professional relationship with the firm of Ulmer, Murchison, Kent, Ashby & Ball and the formation of a partnership for the practice of law under the name of Kent & Kent, with offices at Suite 870, Florida National Bank Building, Jacksonville.

E. Paul Gregory and *Alton M. Towles* announce that *Jack G. Beatty* has become a member of the firm, hereafter to be known as Gregory, Towles & Beatty, offices at 14 West Washington Street, Quincy.

Office Openings and Removals

Frank T. Imand announces the removal of his office to First National Bank Building, 975 Palm Springs Mile, Hialeah.

Ira L. Childers, formerly of the Kansas City, Missouri Bar, announces the opening of his office in St. Petersburg for the general practice of law. His offices are located at 516 Hall Building, Central Avenue at Fourth Street.

Charles W. Grant, 622 Barnett Bank Building, and *Victor E. Raymos*, 206 Hemming Park Building, announce the removal of their offices to 1125 Barnett Bank Building, Jacksonville.

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James A. Devito announces the opening of his office for the general practice of law at 4154 Central Avenue, St. Petersburg.

Richard A. Bianco has removed his office to Suite 202, 725 E. Kennedy Boulevard, Tampa.

Effective May 15, *W. George E. Allen*, Ft. Myers and *Alcee L. Hastings*, Ft. Lauderdale, announce the dissolution of Allen & Hastings Law Offices. Both will continue the practice of law separately.

V. Robert Carlisle removed his main office to Suite 219-221 Life of Florida Building, 299 Alhambra Circle, Coral Gables. His other office is located at Suite 421 Plaza Building, 245 Southeast First Street, Miami.

George A. Routh has announced the opening of his offices for general practice at 1448 Court Street, Clearwater.

Other News of Interest

John Doyle Thomas, Cross City, was recently appointed attorney for the Dixie County School Board replacing *O. O. Edwards*, who resigned from the position he had held for the past 29 years.

Fred Kent, Jr., is leaving the staff of Governor *Claude R. Kirk* to continue the practice of law in Jacksonville.

State Attorney *Richard E. Gerstein* was a member of the Advisory Committee on Sentencing and Review that recommended a plan to provide a review of criminal sentences by appellate courts. The committee was chaired by U. S. Judge *Simon E. Sobeloff* of the Court of Appeals for the Fifth Circuit.

Brooksville attorney *Joseph E. Johnston, Jr.*, is the new president of The Merrymakers Club for the year 1967-68.

John Wood of Sarasota spoke to the Kiwanis Club of Gulf Coast, Sarasota, June 15 on the recent 25th reunion in the Philippines of the survivors of the Bataan death march. *Wood* was one of the survivors.

A husband and wife team of lawyers from the City of Hollywood was recently admitted to practice before the Supreme Court of the United States. They are *Myron* and *Miette Burnstein*. *Mrs. Burnstein* is now an associate in the Hollywood law firm Salter, Yeslow and Burnstein.

Tallahassee attorney *John Cotten* recently led a delegation of local Elks to the annual convention of Florida Elks in Fort Lauderdale. *Cotton* is the Exalted Ruler of the Tallahassee Elks Lodge.

Constantine P. (Dick) Lantz, legal counsel in Tallahassee for the 43rd Senatorial District, spoke in Miami on June 15 to the North Dade Democratic Club. *Lantz* discussed "Procedures In The Legislature" as well as the 1967 accomplishments to date.

The First National Bank of Hollywood recently elected *Harold C. Satchell, Jr.*, as senior vice president and trust officer.

Assistant Attorney General *Wilson W. Wright* was recently honored by the Tallahassee Jaycees with their annual Good Government Award in recognition of his long-time dedication as a career public servant. A resolution was adopted by the State Senate and House on June 1, commending *Wright* for his daily, behind-the-scenes contribution to the smooth functioning of the judicial branch of government.

Directors of the Volusia County Legal Services, Inc., Daytona Beach, announced recently that *Thomas Goldsmith* has been employed as a staff attorney. The program's purpose

is to provide legal aid to indigents and residents of low income. Other attorneys in the program are *Warren H. Cobb* and *Richard Kane.*

North Orlando Village Council voted to retain *Thomas G. Freeman* as city attorney at a special meeting May 15. *Freeman* is associated with the firm Stenstrom, Davis and McIntosh.

Lew Hawthorne was hired May 15 as assistant to Broward County solicitor *Angeline G. Weir. Hawthorne* is the 13th assistant in the department. He will replace *Ed Miller* who left the department several weeks ago.

Judge *John G. Baker* resigned May 22 as city attorney, ending a 32-year association his law firm has had with the City of Orlando. City council, accepting *Baker's* resignation "with sincere regret," named *Egerton K. van den Berg* as head of the city's legal department effective June 1, coinciding with *Baker's* resignation date.

J. Franklin Garner of the Florida Industrial Commission in Tallahassee was guest speaker at a joint meeting of the Tri-County Medical Association and St. Lucie County Bar Association on May 18.

Ruth Fleet Thurman of St. Petersburg has been appointed an assistant to Pinellas State Attorney *Clair A. Davis.* Mrs. *Thurman* is the first woman appointee to the state attorney's office since *Davis* took the post in January 1953.

William A. Gillen, Tampa, was recently elected president of the University of South Florida Foundation. *Gillen* is a member of the Fowler, White, Gillen, Humkey and Trenam law firm.

Board chairman *Owen Rice, Jr.,* announced May 17 that Miami attorney *Donald F. Castor* has been appointed executive director of Law, Inc. in Tampa.

H. Clyde Hobby, Dade City, has been elected president of the Dade City Junior Chamber of Commerce and took office June 1.

The Florida Defense Lawyers Association named as directors of the second district *W. Robert Mann, of* the Bradenton firm of Knowles, Mann and Blalock, and *David J. Kadyk* of the Tampa firm of MacFarlane, Ferguson, Allison and Kelly. The Florida attorneys will seek to elevate standards of trial practice in Florida through establishing a higher code of trial conduct and courtroom manners.

At the annual dinner-installation of the Seminole Chamber of Commerce recently, attorney *William P. Dunlap* of Seminole, was given the oath of office as president for the coming year.

West Palm Beach City Attorney *Gilbert T. Brophy* announced his resignation effective May 31. *Brophy* said he is leaving the city law office to go into private practice. *Bruce J. Daniels* was appointed to replace *Brophy,* effective June 12.

One of three Tampans receiving awards from the Evening Optimist Club of Tampa was *Britt Whitaker,* who has worked with the Optimists in a program to enhance respect for the law.

Governor *Claude Kirk* appointed *C. Shelby Dale* of Ft. Lauderdale as new chairman of the Florida Development Commission, succeeding *O. William Beaufort,* who resigned.

Baron de Hirsch Meyer, Miami, has been elected president of Mount Sinai Hospital. He served as the hospital's first president from 1946 to 1948.

Henry M. Krystow, Miami, has recently been elected a director of Holsum Bakers of South Miami. *Krystow*

is a partner in the law firm of Krystow, Gay and Ulrich in Miami.

Miami attorney *Burton A. Landy* lectured on "Financing Aircraft Purchases" at the Fourth Interamerican Aviation Law Conference in Buenos Aires, Argentina, June 14-16.

John W. Donahoo, Jacksonville, was elected president of the University of Florida Foundation, Inc., during the spring Board of Directors meeting at the Lago Mar Hotel May 27.

Kenneth G. Anderson has been appointed a member of the National Panel of Arbitrators of the American Arbitration Association.

Robert H. Mackenzie is now an assistant U. S. attorney for the Middle District of Florida. On June 5, he left the firm MacFarlane, Ferguson, Allison & Kelly, Tampa.

Richard N. Friedman, currently practicing law in Washington, D. C., received his degree of Master of Laws in Taxation from Georgetown Law Center on June 5. *Friedman,* who serves as chairman of the Committee to Repeal the 25th Amendment (Presidential Inability), was guest on the "Barry Farber Show" on WOR radio in New York on Monday, May 8. In addition, Chairman *Friedman* was guest speaker at a luncheon held on Thursday, June 8, by the Downtown Junior Chamber of Commerce of Washington, D. C. His topic was: "25th Amendment — An Invitation to Presidential Overthrow."

A Miami Beach lawyer and former assistant state attorney, *Marvin Kimmel,* has been elected president of the Florida State Elks Association. A past president of the Miami Beach Junior Chamber of Commerce, he was named in balloting at the Elks' state convention in Ft. Lauderdale.

Tampa attorney *Raymond J. Malloy* has been elected president of the Hillsborough County Republican Club for 1967-68. *Malloy* was a campaign co-ordinator for Governor *Claude Kirk* and has been active in area Republican affairs for many years.

Richard Wasserman was recently appointed and installed as city prosecutor of North Bay Village. *Wasserman* is Democratic committeeman for the North Bay Village area and a part of Miami Beach. He also is a member of the Miami Beach Bar Association Board of Directors.

Solicitor *James G. Horrell* announced recently that *James C. Dauksch, Jr.,* of Maitland has been named full-time Orange County assistant solicitor.

Leon Kaplan, Coral Gables, has been elected by the Miami Jewish community to serve as 1967-68 president of the Greater Miami Jewish Federation.

Ralph H. Ferrell of Coral Gables was one among six Wake Forest College alumni to receive distinguished service citations June 3. *Ferrell* was honored for his distinction in the field of law. He has served on the board of trustees of Stetson University for many years and is now vice chairman of the board and chairman of the Board of Overseers of the Stetson Law School.

Harold C. Satchell, Jr., vice-president and trust officer of the First National Bank of Hollywood, has been elected senior vice-president and trust officer, according to a recent announcement by chairman of the board *Maynard Abrams.*

Due to the generosity of a local attorney, *Richard Milbauer,* a library of general law works will now be available to lawyers and the general public in New Port Richey.

Sam I. Silver, past president of the Dade County Bar Association and a director of Inter National Bank of

Miami, has been named president of the South Florida Inter Professional Council. *Edward J. Atkins,* also a past president of the Dade County Bar Association, was elected vice president.

Charles H. Spooner, municipal judge of Coral Gables since 1958, was appointed Gables city attorney June 6 to replace the late *Ted Semple.*

Two Florida attorneys have recently been elected as city mayors. *Jay Dermer,* president of Miami Beach Bar Association, was elected as Miami Beach mayor over incumbent *Elliott Roosevelt. Hans Gearhart Tanzler, Jr.,* was elected as Jacksonville's mayor.

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CALENDAR OF LEGAL EVENTS

1967

July 7-8, 14-15, 21-22—Seminars on Uniform Commercial Code of South Carolina Bar Association. Write 1400 Main Street, Columbia, S. C.

July 19-22—Florida County Judges Association Summer Conference, Holiday Inn, Miami Beach.

July 31-August 10—ABA Annual Meeting, Honolulu, Hawaii.

August 7-9—National Conference of Bar Examiners, Ilikai Hotel, Honolulu, Hawaii.

August 28-30—Florida Bar Examination, Dupont Plaza Hotel, Miami.

September 30—General Meeting of Florida Bar Committees, Pier 66, Fort Lauderdale.

October 9-13—The Twenty-Second Annual Workmen's Compensation Educational Conference, Carillon Hotel, Miami Beach.

1968

February 15-18—Midyear Meeting, American Bar Association, Palmer House, Chicago, Illinois.

February 29-March 2—Fourth Annual Assembly of Members of Lawyers' Title Guaranty Fund, Robert Meyer Motor Inn, Orlando.

May 22-25—American Law Institute, Washington, D. C.

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